

SENATE BILL 918

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By: **Senator Forehand**

Introduced and read first time: February 20, 2008

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Long-Term Care Insurance – Discrimination Based on Genetic Information**
3 **or Tests – Prohibited**

4 FOR the purpose of repealing an exemption for long-term care insurance policies from
5 the scope of certain provisions of law regulating the use and disclosure of
6 certain genetic information, certain genetic tests, and the results of certain
7 genetic tests by certain health insurance carriers in connection with health
8 insurance policies and contracts; and generally relating to genetic tests, genetic
9 information, and long-term care insurance.

10 BY repealing and reenacting, with amendments,
11 Article – Insurance
12 Section 27–909
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

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

17 **Article – Insurance**

18 27–909.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Gene product” means the biochemical material, either RNA or
21 protein, made by a gene.

22 (3) (i) “Genetic information” means information:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. about chromosomes, genes, gene products, or
2 inherited characteristics that may derive from an individual or a family member;

3 2. obtained for diagnostic and therapeutic purposes; and

4 3. obtained at a time when the individual to whom the
5 information relates is asymptomatic for the disease.

6 (ii) “Genetic information” does not include:

7 1. routine physical measurements;

8 2. chemical, blood, and urine analyses that are widely
9 accepted and in use in clinical practice;

10 3. tests for use of drugs; or

11 4. tests for the presence of the human immunodeficiency
12 virus.

13 (4) “Genetic services” means health services that are provided to
14 obtain, assess, and interpret genetic information for diagnostic and therapeutic
15 purposes and for genetic education and counseling.

16 (5) “Genetic test” means a laboratory test of human chromosomes,
17 genes, or gene products that is used to identify the presence or absence of inherited or
18 congenital alterations in genetic material that are associated with disease or illness.

19 (b) This section does not apply to life insurance policies, annuity contracts,
20 [long-term care insurance policies,] or disability insurance policies.

21 (c) An insurer, nonprofit health service plan, or health maintenance
22 organization may not:

23 (1) use a genetic test, the results of a genetic test, genetic information,
24 or a request for genetic services, to reject, deny, limit, cancel, refuse to renew, increase
25 the rates of, affect the terms or conditions of, or otherwise affect a health insurance
26 policy or contract;

27 (2) request or require a genetic test, the results of a genetic test, or
28 genetic information for the purpose of determining whether or not to issue or renew
29 health benefits coverage; or

30 (3) release identifiable genetic information or the results of a genetic
31 test to any person who is not an employee of the insurer, nonprofit health service plan,
32 or health maintenance organization or a participating health care provider who
33 provides medical services to insureds or enrollees without the prior written

1 authorization of the individual from whom the test results or genetic information was
2 obtained.

3 (d) Disclosure of identifiable genetic information to an employee or health
4 care provider authorized under subsection (c)(3) of this section shall only be for the
5 purpose of:

6 (1) providing medical care to patients; or

7 (2) conducting research that has been approved by an institutional
8 review board established in accordance with federal law.

9 (e) The authorization described in subsection (c)(3) of this section is required
10 for each disclosure and shall describe the individual or entities making the disclosure,
11 to whom the disclosure is to be made, and the information to be disclosed.

12 (f) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and
13 27-505 of this article apply to nonprofit health service plans and health maintenance
14 organizations.

15 (2) The Commissioner may issue an order under §§ 4-113, 4-114,
16 27-501, and 27-505 of this article if the Commissioner finds a violation of this section.

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