

CHAPTER 632

(House Bill 29)

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,
Article - Insurance
Section 18-101(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY ~~adding to~~ repealing and reenacting, with amendments,
Article - Insurance
Section ~~18-105.1~~ 18-120
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article - Insurance

18-101.

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

(d) "Carrier" means an insurer, nonprofit health service plan, health maintenance organization, or preferred provider organization.

~~18-105.1.~~

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

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

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

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

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

18-120.

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

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

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

2. NOT OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES; AND

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

(II) "GENETIC INFORMATION" DOES NOT INCLUDE INFORMATION:

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

2. DERIVED FROM:

A. ROUTINE PHYSICAL MEASUREMENTS;

B. CHEMICAL, BLOOD, AND URINE ANALYSES;

C. TESTS FOR THE USE OF DRUGS;

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

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

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

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

(II) "GENETIC TEST" DOES NOT INCLUDE:

1. ROUTINE PHYSICAL MEASUREMENTS;

2. CHEMICAL, BLOOD, AND URINE ANALYSES;

3. TESTS FOR THE USE OF DRUGS;

4. TESTS FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS; OR

5. TESTS THAT ARE DIRECTLY RELATED TO A MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT COULD REASONABLY BE DETECTED BY A HEALTH CARE PROFESSIONAL WITH APPROPRIATE TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE INVOLVED.

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

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

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

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

(4) REQUEST OR REQUIRE A GENETIC TEST TO:

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 22, 2008.