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February 15, 2024

TO: The Honorable Joseline A. Pena-Melnyk, Chair
Health and Government Operations Committee

FROM: Hanna Abrams, Assistant Attorney General
Consumer Protection Division

Heather Forsyth, Deputy Director
Health Education and Advocacy Unit

RE: House Bill 982 – Genetic Testing – Prohibitions on Disability, Life, and
Long-Term Care Insurance (Genetic Testing Protection Act of 2024)
(SUPPORT)

The Consumer Protection Division of the Office of the Attorney General and the Division's Health Education and Advocacy Unit (HEAU) support House Bill 982, sponsored by Delegate Kipke. House Bill 982 extends the protections of current law at Ins. Article § 27-909, which prohibits an insurer, nonprofit health plan, or health maintenance organization from using a genetic test, genetic information, or a request for genetic services to affect a health insurance policy or contract. This bill extends these prohibitions to issuers of life, disability, or long-term care coverage so the issuer may not deny or limit coverage under these contracts or policies based on genetic tests, information, or services.

We share the advocates' concerns that, if consumers fear being denied insurance based on the results of genetic testing, consumers will instead forego the testing. Genetic testing may be relevant to an individual's health care or lifestyle decisions and may be used to trace ancestry. Genetic testing is also critical to research into curing or treating diseases or developing therapeutic medicines. However, just as Maryland and the federal Genetic Information Nondiscrimination Act prohibit denying health insurance to individuals based on genetic testing, these genetic tests should not also be used to deny an individual the ability to obtain disability, life, and long-term care insurance.

Maryland is not alone in offering its residents consumer protections for genetic testing. Florida passed a law for policies starting or renewing after January 1, 2021, which states insurers (including life, disability, and long-term care insurers), in the absence of a diagnosis of a condition related to genetic information, cannot require or ask for genetic information or use genetic test results to deny, limit, or cancel coverage or set different premiums based on genetic information. <https://laws.flrules.org/2020/159> (Florida does allow a life or long-term care insurer to consider a diagnosis in the medical record, even if the diagnosis was made with the results from a genetic test.)

We note that the definition of “genetic information” in HB 982 covers information not obtained for diagnostic and therapeutic purposes at a time when the individual was asymptomatic for the disease. There are two definitions for “genetic information” found within the Insurance Article. *Compare* Ins. Art. § 27-909(a)(3) *with* § 18-120(a)(2)(i). We recommend adopting the definition proposed in HB 982 which conforms to that found in § 18-120 of the Insurance Article because the purpose of § 18-120 of the Insurance Article is to prohibit long-term insurance carriers from discriminating based on genetic information, the same type of protections sought in this bill. In contrast, the purpose of § 27-909 of the Article is to require health insurance coverage, rather than to prohibit discrimination.

The Consumer Protection Division and HEAU believe that House Bill 982 would help to protect Maryland citizens from discrimination based upon the results of genetic testing and respectfully requests that the Health and Government Operations Committee return a favorable report on House Bill 982.

cc: The Honorable Nicholas R. Kipke
Members, Health and Government Operations Committee