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**By: Senators Forehand, Sfikas, Kelley, Teitelbaum, Currie, and Munson**

Introduced and read first time: January 25, 1996

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Prohibiting Use of Genetic Information**

3 FOR the purpose of prohibiting certain insurers, nonprofit health service plans, and  
4 health maintenance organizations from using certain genetic information to affect  
5 health insurance policies or contracts; establishing certain remedies for individuals  
6 injured by a violation of this Act; defining a certain term; providing for the  
7 termination of this Act; altering certain provisions of law regarding unfair  
8 discrimination in certain rates and health insurance premiums; and generally  
9 relating to the use of certain genetic information by certain insurers, nonprofit  
10 health service plans, and health maintenance organizations.

11 BY repealing and reenacting, with amendments,  
12 Article 48A - Insurance Code  
13 Section 223  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1995 Supplement)

16 BY adding to  
17 Article 48A - Insurance Code  
18 Section 223.1  
19 Annotated Code of Maryland  
20 (1994 Replacement Volume and 1995 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - Health - General  
23 Section 19-706(k)  
24 Annotated Code of Maryland  
25 (1990 Replacement Volume and 1995 Supplement)

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

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1           **Article 48A - Insurance Code**

2   223.

3           (a) (1) No person shall make or permit any unfair discrimination between  
4 individuals of the same class and equal expectation of life in the rates charged for any  
5 contract of life insurance or of life annuity or in the dividends or other benefits payable  
6 thereon, or in any other of the terms and conditions of such contract.

7           (2) (i) Notwithstanding any other provisions in this section, an insurer  
8 may not make or permit any differential in ratings, premium payments or dividends for  
9 life insurance and annuity contracts for any reason based on the blindness or other  
10 physical handicap or disability of an applicant or policyholder.

11           (ii) Actuarial justification for the differential may be considered for a  
12 physical handicap or disability other than blindness or hearing impairment.

13           (3) An insurer may not refuse to insure or make or permit any differential in  
14 ratings, premium payments, or dividends in connection with life insurance and life  
15 annuity contracts solely because the applicant or policyholder has the sickle-cell trait,  
16 thalassemia-minor trait, hemoglobin C trait, Tay-Sachs trait, or any genetic trait which is  
17 harmless within itself, unless there is actuarial justification for it.

18           (b) (1) No person shall make or permit any unfair discrimination between  
19 individuals of the same class and of essentially the same hazard in the amount of  
20 premium, policy fees, or rates charged for any policy or contract of health insurance or in  
21 the benefits payable thereunder, or in any of the terms, or conditions of such contract, or  
22 in any other manner whatever.

23           (2) Notwithstanding any other provisions in this section, an insurer may not  
24 make or permit any differential in ratings, premium payments or dividends for any reason  
25 based on the sex of an applicant or policyholder unless there is actuarial justification for  
26 the differential.

27           (3) (i) [Notwithstanding] EXCEPT AS PROVIDED UNDER § 223.1 OF  
28 THIS SUBTITLE AND NOTWITHSTANDING any other provisions in this section, an insurer  
29 may not make or permit any differential in ratings, premium payments or dividends for  
30 health insurance contracts for any reason based on the blindness or other physical  
31 handicap or disability of an applicant or policyholder.

32           (ii) [Actuarial] EXCEPT AS PROVIDED UNDER § 223.1 OF THIS  
33 SUBTITLE, ACTUARIAL justification for the differential may be considered for a physical  
34 handicap or disability other than blindness or hearing impairment.

35           [(4) An insurer may not make or permit any differential in ratings, premium  
36 payments, or dividends in connection with a health insurance contract solely because the  
37 applicant or policyholder has the sickle-cell trait, thalassemia-minor trait, hemoglobin C  
38 trait, Tay-Sachs trait, or any genetic trait which is harmless within itself, unless there is  
39 actuarial justification for it.]

3

1 223.1.

2 (A) IN THIS SECTION, "GENETIC INFORMATION" MEANS INFORMATION  
3 ABOUT THE GENES, GENE PRODUCTS, OR INHERITED CHARACTERISTICS OF AN  
4 INDIVIDUAL.

5 (B) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
6 MAINTENANCE ORGANIZATION MAY NOT:

7 (1) USE GENETIC INFORMATION TO REJECT, DENY, LIMIT, CANCEL,  
8 REFUSE TO RENEW, INCREASE THE RATES OF, AFFECT THE TERMS OR CONDITIONS  
9 OF, OR OTHERWISE AFFECT A HEALTH INSURANCE POLICY OR CONTRACT;

10 (2) REQUEST OR REQUIRE THE COLLECTION OF GENETIC  
11 INFORMATION; OR

12 (3) RELEASE GENETIC INFORMATION WITHOUT THE PRIOR WRITTEN  
13 AUTHORIZATION OF THE INDIVIDUAL FROM WHOM THE INFORMATION WAS  
14 DERIVED.

15 (C) AN INDIVIDUAL WHO IS INJURED BY A VIOLATION OF THIS SECTION MAY  
16 RECOVER IN A COURT OF COMPETENT JURISDICTION:

17 (1) EQUITABLE RELIEF, INCLUDING A RETROACTIVE ORDER  
18 DIRECTING THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH  
19 MAINTENANCE ORGANIZATION TO PROVIDE HEALTH INSURANCE TO THE  
20 INDIVIDUAL UNDER THE SAME TERMS AND CONDITIONS THAT WOULD HAVE  
21 APPLIED HAD THE VIOLATION NOT OCCURRED; AND

22 (2) ACTUAL DAMAGES.

23 **Article - Health - General**

24 19-706.

25 (k) THE PROVISIONS OF ARTICLE 48A, § 223.1 OF THE CODE SHALL APPLY TO  
26 HEALTH MAINTENANCE ORGANIZATIONS.

27 (L) (1) A health maintenance organization shall:

28 (i) Classify an obstetrician/gynecologist as a primary care physician; or

29 (ii) Permit a woman to receive an annual visit to an in-network  
30 obstetrician/gynecologist for routine gynecological care without requiring the woman to  
31 first visit a primary care provider.

32 (2) If a health maintenance organization classifies an  
33 obstetrician/gynecologist as a primary care physician as provided underparagraph (1) of  
34 this subsection, and a woman does not choose an obstetrician/gynecologist as her primary  
35 care provider, the health maintenance organization shall permit the woman to receive an  
36 annual visit to an in-network obstetrician/gynecologist for routine gynecological care  
37 without requiring the woman to first visit her primary care provider, whether or not the  
38 primary care provider is qualified to and regularly provides routine gynecological care.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1996. It shall remain in effect for a period of 6 years and,at the end of  
3 September 30, 2002, with no further action required by the General Assembly, this Act  
4 shall be abrogated and of no further force and effect.