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

Introduced and read first time: January 25, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 29, 1996

CHAPTER _____

1 AN ACT concerning

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

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

12 BY repealing and reenacting, with amendments,
13 Article 48A - Insurance Code
14 Section 223
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1995 Supplement)

17 BY adding to
18 Article 48A - Insurance Code
19 Section 223.1
20 Annotated Code of Maryland
21 (1994 Replacement Volume and 1995 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 19-706(k)

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1 Annotated Code of Maryland
2 (1990 Replacement Volume and 1995 Supplement)

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

5 **Article 48A - Insurance Code**

6 223.

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

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

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

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

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

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

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

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

39 [(4) An insurer may not make or permit any differential in ratings, premium
40 payments, or dividends in connection with a health insurance contract solely because the
41 applicant or policyholder has the sickle-cell trait, thalassemia-minor trait, hemoglobin C

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1 trait, Tay-Sachs trait, or any genetic trait which is harmless within itself, unless there is
2 actuarial justification for it.]

3 223.1.

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

7 (A) IN THIS SECTION, "GENETIC TEST" MEANS A LABORATORY TEST OF
8 HUMAN CHROMOSOMES OR DNA THAT IS USED TO IDENTIFY THE PRESENCE OR
9 ABSENCE OF INHERITED OR CONGENITAL ALTERATIONS IN GENETIC MATERIAL
10 THAT ARE ASSOCIATED WITH DISEASE OR ILLNESS.

11 (B) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO LIFE INSURANCE,
12 LIFE ANNUITY, OR DISABILITY INSURANCE POLICIES.

13 (C) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH
14 MAINTENANCE ORGANIZATION MAY NOT:

15 (1) USE GENETIC INFORMATION A GENETIC TEST OR THE RESULTS OF A
16 GENETIC TEST TO REJECT, DENY, LIMIT, CANCEL, REFUSE TO RENEW, INCREASE
17 THE RATES OF, AFFECT THE TERMS OR CONDITIONS OF, OR OTHERWISE AFFECT A
18 HEALTH INSURANCE POLICY OR CONTRACT;

19 (2) REQUEST OR REQUIRE THE COLLECTION OF GENETIC
20 INFORMATION A GENETIC TEST FOR THE PURPOSE OF DETERMINING WHETHER OR
21 NOT TO ISSUE OR RENEW HEALTH BENEFITS COVERAGE; OR

22 (3) RELEASE GENETIC INFORMATION THE RESULTS OF A GENETIC TEST
23 WITHOUT THE PRIOR WRITTEN AUTHORIZATION OF THE INDIVIDUAL FROM WHOM
24 THE INFORMATION WAS DERIVED TEST WAS OBTAINED.

25 ~~(C) (D) AN INDIVIDUAL WHO IS INJURED BY A VIOLATION OF THIS SECTION~~
26 ~~MAY RECOVER IN A COURT OF COMPETENT JURISDICTION:~~

27 ~~(1) EQUITABLE RELIEF, INCLUDING A RETROACTIVE ORDER~~
28 ~~DIRECTING THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH~~
29 ~~MAINTENANCE ORGANIZATION TO PROVIDE HEALTH INSURANCE TO THE~~
30 ~~INDIVIDUAL UNDER THE SAME TERMS AND CONDITIONS THAT WOULD HAVE~~
31 ~~APPLIED HAD THE VIOLATION NOT OCCURRED; AND~~

32 ~~(2) ACTUAL DAMAGES.~~

33 (1) FOR PURPOSES OF THIS SUBSECTION, §§ 55, 55A, 234A, AND 234C OF
34 THIS ARTICLE APPLY TO A NONPROFIT HEALTH SERVICE PLAN AND A HEALTH
35 MAINTENANCE ORGANIZATION.

36 (2) THE COMMISSIONER MAY ISSUE AN ORDER UNDER §§ 55, 55A, 234A,
37 AND 234C OF THIS ARTICLE IF THE COMMISSIONER FINDS A VIOLATION OF THIS
38 SECTION.

4

1 **Article - Health - General**

2 19-706.

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

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

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

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

10 (2) If a health maintenance organization classifies an
11 obstetrician/gynecologist as a primary care physician as provided underparagraph (1) of
12 this subsection, and a woman does not choose an obstetrician/gynecologist as her primary
13 care provider, the health maintenance organization shall permit the woman to receive an
14 annual visit to an in-network obstetrician/gynecologist for routine gynecological care
15 without requiring the woman to first visit her primary care provider, whether or not the
16 primary care provider is qualified to and regularly provides routine gynecological care.

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