

SENATE BILL 774

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SB 324/98 - FIN

1999 Regular Session  
9lr2584

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By: ~~Senator Forehand~~ **Senators Forehand, Kelley, and Teitelbaum**

Introduced and read first time: March 5, 1999

Assigned to: Rules

Re-referred to: Finance, March 11, 1999

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Genetic Information Nondiscrimination in Health Insurance Act of 1999**

3 FOR the purpose of prohibiting the use of certain genetic information to deny or  
4 otherwise affect a health insurance policy or contract; prohibiting the request or  
5 requirement of certain genetic information as a basis for issuing or renewing  
6 health benefits coverage; prohibiting the disclosure of certain genetic  
7 information to certain persons without certain authorization of the individual  
8 from whom the genetic information was obtained; identifying certain  
9 permissible purposes for disclosure of genetic information; defining certain  
10 terms; repealing the termination date of certain provisions of law that relate to  
11 the use of genetic tests; and generally relating to prohibiting discrimination on  
12 the basis of genetic information in health insurance.

13 BY repealing and reenacting, with amendments,  
14 Article - Insurance  
15 Section 27-909  
16 Annotated Code of Maryland  
17 (1997 Volume and 1998 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Chapter 24 of the Acts of the General Assembly of 1996  
20 Section 2

21 BY repealing  
22 Chapter 70 of the Acts of the General Assembly of 1997  
23 Section 21, 23, and 26

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

3 **Article - Insurance**

4 27-909.

5 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (2) "GENE PRODUCT" MEANS THE BIOCHEMICAL MATERIAL, EITHER RNA  
8 OR PROTEIN, MADE BY A GENE.

9 (3) (I) "GENETIC INFORMATION" MEANS INFORMATION:

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

13 2. OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC  
14 PURPOSES; AND

15 3. OBTAINED AT A TIME WHEN THE INDIVIDUAL TO WHOM  
16 THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE.

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

18 1. ROUTINE PHYSICAL MEASUREMENTS;

19 2. CHEMICAL, BLOOD, AND URINE ANALYSES THAT ARE  
20 WIDELY ACCEPTED AND IN USE IN CLINICAL PRACTICE;

21 3. TESTS FOR USE OF DRUGS; OR

22 4. TESTS FOR THE PRESENCE OF THE HUMAN  
23 IMMUNODEFICIENCY VIRUS.

24 (4) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE  
25 PROVIDED TO OBTAIN, ASSESS, AND INTERPRET GENETIC INFORMATION FOR  
26 DIAGNOSTIC AND THERAPEUTIC PURPOSES AND FOR GENETIC EDUCATION AND  
27 COUNSELING.

28 (5) [In this section, "genetic] "GENETIC test" means a laboratory test of  
29 human chromosomes [or DNA], GENES, OR GENE PRODUCTS that is used to identify  
30 the presence or absence of inherited or congenital alterations in genetic material that  
31 are associated with disease or illness.

32 (b) This section does not apply to life insurance policies, annuity contracts,  
33 LONG-TERM CARE INSURANCE POLICIES, or disability insurance policies.

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

3 (1) use a genetic test ~~or~~ the results of a genetic test, GENETIC  
4 INFORMATION, OR A REQUEST FOR GENETIC SERVICES, to reject, deny, limit, cancel,  
5 refuse to renew, increase the rates of, affect the terms or conditions of, or otherwise  
6 affect a health insurance policy or contract;

7 (2) request or require a genetic test, THE RESULTS OF A GENETIC TEST,  
8 OR GENETIC INFORMATION for the purpose of determining whether or not to issue or  
9 renew health benefits coverage; or

10 (3) release [the results of a genetic test] IDENTIFIABLE GENETIC  
11 INFORMATION OR THE RESULTS OF A GENETIC TEST TO ANY PERSON WHO IS NOT AN  
12 EMPLOYEE OF THE ~~PLAN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH~~  
13 MAINTENANCE ORGANIZATION OR A PARTICIPATING HEALTH CARE PROVIDER WHO  
14 PROVIDES MEDICAL SERVICES TO INSUREDS OR ENROLLEES without the prior  
15 written authorization of the individual from whom the test RESULTS OR GENETIC  
16 INFORMATION was obtained.

17 (D) DISCLOSURE OF IDENTIFIABLE GENETIC INFORMATION TO AN EMPLOYEE  
18 OR HEALTH CARE PROVIDER AUTHORIZED UNDER SUBSECTION (C)(3) OF THIS  
19 SECTION SHALL ONLY BE FOR THE PURPOSE OF:

20 (1) PROVIDING MEDICAL CARE TO PATIENTS; OR

21 (2) CONDUCTING RESEARCH THAT HAS BEEN APPROVED BY AN  
22 INSTITUTIONAL REVIEW BOARD ESTABLISHED IN ACCORDANCE WITH FEDERAL LAW.

23 (E) THE AUTHORIZATION DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION  
24 IS REQUIRED FOR EACH DISCLOSURE AND SHALL DESCRIBE THE INDIVIDUAL OR  
25 ENTITIES MAKING THE DISCLOSURE, ~~AND~~ TO WHOM THE DISCLOSURE IS TO BE  
26 MADE, AND THE INFORMATION TO BE DISCLOSED.

27 [(d)] (F) (1) For purposes of this subsection, §§ 4-113, 4-114, 27-501, and  
28 27-505 of this article apply to nonprofit health service plans and health maintenance  
29 organizations.

30 (2) The Commissioner may issue an order under §§ 4-113, 4-114,  
31 27-501, and 27-505 of this article if the Commissioner finds a violation of this  
32 section.

33 **Chapter 24 of the Acts of 1996**

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

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**Chapter 70 of the Acts of 1997**

2 [SECTION 21. AND BE IT FURTHER ENACTED, That, at the end of  
3 September 30, 2002, and with no further action required by the General Assembly, §  
4 27-909 of the Insurance Article, as enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of  
5 the General Assembly of 1997, shall be void. This section supersedes the termination  
6 and abrogation provisions of Section 2 of Chapter 24 of the Acts of the General  
7 Assembly of 1996.]

8 [SECTION 23. AND BE IT FURTHER ENACTED, That, at the end of  
9 September 30, 2002, and with no further action required by the General Assembly, §  
10 19-706(k) of the Health - General Article shall be void and § 19-706(l) of the Health  
11 - General Article, as enacted by Section 5 of this Act, shall take effect. This section  
12 supersedes the termination and abrogation provisions of Section 2 of Chapter 24 of  
13 the Acts of the General Assembly of 1996.]

14 [SECTION 26. AND BE IT FURTHER ENACTED, That, at the end of  
15 September 30, 2002, and with no further action required by the General Assembly, §  
16 27-208 of the Insurance Article, as enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of  
17 the General Assembly of 1997, shall be void and § 27-208 of the Insurance Article, as  
18 enacted by Section 11 of this Act, shall take effect. This section supersedes the  
19 termination and abrogation provisions of Section 2 of Chapter 24 of the Acts of the  
20 General Assembly of 1996.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1999.