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OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION
HEALTH EDUCATION AND ADVOCACY UNIT

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February 24, 2025

TO: The Honorable Pamela Beidle, Chair
              Senate Finance Committee

FROM: Hanna Abrams, Assistant Attorney General
              Consumer Protection Division

              Irnise F. Williams, Deputy Director
              Health Education and Advocacy Unit

RE: Senate Bill 757- Genetic Testing - Prohibition on Disability, Life, and Long-Term Care Insurance (Genetic Testing Protection Act)- **SUPPORT**

The Consumer Protection Division (CPD) of the Office of the Attorney General and the Division's Health Education and Advocacy Unit (HEAU) support Senate Bill 757. This bill 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 healthcare 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 (GINA) 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 1007 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 1007 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 CPD and HEAU believe that Senate Bill 757 would help to protect Maryland citizens from discrimination based upon the results of genetic testing.

We urge a favorable report.

cc: The Honorable Alonzo T. Washington