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S.247

Introduced by Senators Lyons, Hardy, Hooker and Ram Hinsdale

Referred to Committee on

Date:

Subject: Genetic information; health care; insurance; discrimination

Statement of purpose of bill as introduced: This bill proposes to prohibit discrimination based on an individual’s genetic information in relation to insurance coverage and the provision of social and medical services.

An act relating to prohibiting discrimination based on genetic information

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Genetic Information and Testing * * *

Sec. 1. 18 V.S.A. § 9331 is amended to read:

§ 9331. DEFINITIONS

~~For purposes of~~ As used in this chapter:

* * *

(6) “Genetic information” means:

(A) the results of genetic testing related to an individual or a family member of the individual contained in any report, interpretation, evaluation, or other record ~~thereof;~~ or

1 (B) the manifestation of a disease or disorder in a family member of
2 the individual.

3 * * *

4 Sec. 2. 18 V.S.A. § 9334 is amended to read:

5 § 9334. GENETIC TESTING AS A CONDITION OF INSURANCE

6 COVERAGE

7 (a) No policy of insurance offered for delivery or issued in this State shall
8 be underwritten or conditioned on the basis of:

9 (1) any requirement or agreement of the individual to undergo genetic
10 testing; ~~or~~

11 (2) genetic information of the individual that may be associated with a
12 potential genetic condition in that individual but that has not resulted in a
13 diagnosed condition in the individual; or

14 (3) the results of genetic testing of genetic information of a member of
15 the individual's family.

16 * * *

17 * * * Insurance * * *

18 Sec. 3. 8 V.S.A. § 3702 is amended to read:

19 § 3702. OTHER PROHIBITED PRACTICES

20 A life insurance company doing business in the State or an agent thereof
21 shall not do any of the following:

1 (1) ~~issue~~ Issue a policy of insurance or make an agreement other than
2 that plainly expressed in the policy issued to the insured;

3 (2) ~~pay~~ Pay or allow, or offer to pay or allow, as an inducement to
4 insurance, a rebate or premium payable on the policy;

5 (3) ~~grant~~ Grant a special favor or advantage in the dividends or other
6 benefits to accrue thereon; ~~or~~.

7 (4) ~~provide~~ Provide any valuable consideration or inducement not
8 specified in the policy.

9 (5)(A) Condition insurance rates, the provision or renewal of insurance
10 coverage or benefits, or other conditions of insurance for any individual on:

11 (i) any requirement or agreement of the individual to undergo
12 genetic testing;

13 (ii) genetic information of the individual that may be associated
14 with a potential genetic condition in that individual but that has not resulted in
15 a diagnosed condition in the individual; or

16 (iii) genetic information of a member of the individual's family.

17 (B) As used in this subdivision (5), "genetic testing" and "genetic
18 information" have the same meaning as in 18 V.S.A. § 9331.

19 (C) Notwithstanding subdivisions (A) and (B) of this subdivision (5),
20 a life insurance company or its agent may condition insurance rates, the
21 provision or renewal of insurance coverage or benefits, or other conditions of

1 insurance for an individual on the individual's family medical history,
2 including the manifestation of a disease or disorder in one or more family
3 members of the individual, provided that there is a relationship between the
4 individual's family medical history and the cost of the insurance risk that the
5 insurer would assume by insuring the individual. In demonstrating the
6 relationship, the insurer can rely on actual or reasonably anticipated
7 experience.

8 (6) Request, require, purchase, or use information obtained from an
9 entity providing direct-to-consumer genetic testing without the informed
10 written consent of the individual who has been tested.

11 Sec. 4. 8 V.S.A. § 4724 is amended to read:

12 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
13 DECEPTIVE ACTS OR PRACTICES DEFINED

14 The following are hereby defined as unfair methods of competition or unfair
15 or deceptive acts or practices in the business of insurance:

16 * * *

17 (7) Unfair discrimination; arbitrary underwriting action.

18 * * *

19 (D) Making or permitting any unfair discrimination against any
20 individual by conditioning insurance rates, the provision or renewal of
21 insurance coverage, or other conditions of insurance based on medical

1 information, ~~including the results of genetic testing~~, where there is not a
2 relationship between the medical information and the cost of the insurance risk
3 that the insurer would assume by insuring the proposed insured. In
4 demonstrating the relationship, the insurer can rely on actual or reasonably
5 anticipated experience. ~~As used in this subdivision, “genetic testing” shall be~~
6 ~~defined as the term is defined in 18 V.S.A. § 9331(7).~~

7 * * *

8 (F)(i) Making or permitting any unfair discrimination against any
9 individual by conditioning insurance rates, the provision or renewal of
10 insurance coverage, or other conditions of insurance on:

11 (I) any requirement or agreement of the individual to undergo
12 genetic testing;

13 (II) genetic information of the individual that may be
14 associated with a potential genetic condition in that individual but that has not
15 resulted in a diagnosed condition in the individual; or

16 (III) genetic information of a member of the individual’s
17 family.

18 (ii) As used in this subdivision (7)(F), “genetic testing” and
19 “genetic information” have the same meaning as in 18 V.S.A. § 9331.

20 * * *

21 (22) Genetic testing.

1 (A) Conditioning insurance rates, the provision or renewal of
2 insurance coverage or benefits, or other conditions of insurance for any
3 individual on:

4 (i) any requirement or agreement of the individual to undergo
5 genetic testing; ~~or~~

6 (ii) genetic information of the individual that may be associated
7 with a potential genetic condition in that individual but that has not resulted in
8 a diagnosed condition in the individual; or

9 (iii) ~~the results of genetic testing~~ genetic information of a member
10 of the individual's family ~~unless the results are contained in the individual's~~
11 ~~medical record.~~

12 (B) As used in this subdivision (22), "genetic testing" ~~shall be~~
13 ~~defined as the term is defined~~ and "genetic information" have the same
14 meaning as in 18 V.S.A. § 9331(7) 9331.

15 Sec. 5. 8 V.S.A. § 5115 is amended to read:

16 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE
17 ORGANIZATIONS

18 (a) Any nonprofit health maintenance organization subject to this chapter
19 shall offer nongroup plans to individuals in accordance with section 4080b of
20 this title without discrimination based on age, gender, industry, genetic
21 information, and medical history, except as allowed ~~by subdivisions~~

1 ~~4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~ pursuant to 33 V.S.A.
2 § 1811(f)(2)(A).

3 (b) As used in this section, “genetic information” has the same meaning as
4 in 18 V.S.A. § 9331.

5 Sec. 6. 8 V.S.A. § 8086 is amended to read:

6 § 8086. PREEXISTING CONDITIONS; GENETIC TESTING

7 * * *

8 (b)(1) No long-term care insurance policy or certificate may exclude
9 coverage for a loss or confinement ~~which~~ that is the result of a preexisting
10 condition, unless ~~such~~ the loss or confinement begins within six months
11 following the effective date of coverage of an insured person.

12 (2)(A) No long-term care insurance policy or certificate may condition
13 insurance rates, the provision or renewal of insurance coverage or benefits, or
14 other conditions of insurance for any individual on:

15 (i) any requirement or agreement of the individual to undergo
16 genetic testing;

17 (ii) genetic information of the individual that may be associated
18 with a potential genetic condition in that individual but that has not resulted in
19 a diagnosed condition in the individual; or

20 (iii) genetic information of a member of the individual’s family.

1 (B) As used in this subdivision (2), “genetic testing” and “genetic
2 information” have the same meaning as in 18 V.S.A. § 9331.

3 * * *

4 * * * Social and Medical Services * * *

5 Sec. 7. 8 V.S.A. § 4588 is amended to read:

6 § 4588. ANNUAL REPORT TO COMMISSIONER

7 (a) Annually, on or before March 1, a medical service corporation shall file
8 with the Commissioner of Financial Regulation a statement sworn to by the
9 president and treasurer of the corporation showing its condition on December
10 31, which shall be in such form and contain such matters as the Commissioner
11 shall prescribe. To qualify for the tax exemption set forth in section 4590 of
12 this title, the statement shall include a certification that the medical service
13 corporation operates on a nonprofit basis for the purpose of providing an
14 adequate medical service plan to individuals of the State, both groups and
15 nongroups, without discrimination based on age, gender, geographic area,
16 industry, genetic information, and medical history, except as allowed by
17 ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title pursuant to~~
18 33 V.S.A. § 1811(f)(2)(A).

19 (b) As used in this section, “genetic information” has the same meaning as
20 in 18 V.S.A. § 9331.

1 Sec. 8. 8 V.S.A. § 4516 is amended to read:

2 § 4516. ANNUAL REPORT TO COMMISSIONER

3 (a) Annually, on or before March 1, a hospital service corporation shall file
4 with the Commissioner of Financial Regulation a statement sworn to by the
5 president and treasurer of the corporation showing its condition on
6 December 31. The statement shall be in such form and contain such matters as
7 the Commissioner shall prescribe. To qualify for the tax exemption set forth in
8 section 4518 of this title, the statement shall include a certification that the
9 hospital service corporation operates on a nonprofit basis for the purpose of
10 providing an adequate hospital service plan to individuals of the State, both
11 groups and nongroups, without discrimination based on age, gender,
12 geographic area, industry, genetic information, and medical history, except as
13 allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~
14 pursuant to 33 V.S.A. § 1811(f)(2)(A).

15 (b) As used in this section, “genetic information” has the same meaning as
16 in 18 V.S.A. § 9331.

17 Sec. 9. 33 V.S.A. § 101 is amended to read:

18 § 101. POLICY

19 It is the policy of the State of Vermont that:

20 * * *

