S.247

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 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.

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

§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE COVERAGE

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

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

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

(3) the results of genetic testing information of a member of the individual’s family that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

* * *

* * * Insurance * * *

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

§ 3702. OTHER PROHIBITED PRACTICES

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

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

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

(3) grant a special favor or advantage in the dividends or other benefits to accrue thereon; or

(4) provide any valuable consideration or inducement not specified in the policy.

(5)(A) Condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:
(i) any requirement or agreement of the individual to undergo
    genetic testing;

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

(iii) genetic information of a member of the individual’s family
     that may be associated with a potential genetic condition in that family
     member but that has not resulted in a diagnosed condition in the family
     member.

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

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

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

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

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

* * *

(7) Unfair discrimination; arbitrary underwriting action.
* * *

(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, including the results of genetic testing, where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. As used in this subdivision, “genetic testing” shall be defined as the term is defined in 18 V.S.A. § 9331(7).

* * *

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

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

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

(III) genetic information of a member of the individual’s family that may be associated with a potential genetic condition in that family.
member but that has not resulted in a diagnosed condition in the family member.

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

* * *

(22) Genetic testing.

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

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

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

(iii) the results of genetic testing information of a member of the individual’s family unless the results are contained in the individual’s medical record that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

(B) As used in this subdivision (22), “genetic testing” shall be defined as the term is defined and “genetic information” have the same
meanings as in 18 V.S.A. § 9331(7).

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

§ 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE ORGANIZATIONS

(a) Any nonprofit health maintenance organization subject to this chapter shall offer nongroup plans to individuals in accordance with section 4080b of this title without discrimination based on age, gender, industry, genetic information, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title pursuant to 33 V.S.A. § 1811(f)(2)(A).

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

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

§ 8086. PREEXISTING CONDITIONS; GENETIC TESTING

* * *

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

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

   (i) any requirement or agreement of the individual to undergo genetic testing:

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

   (iii) genetic information of a member of the individual’s family that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

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

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* * * Social and Medical Services * * *

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

§ 4588. ANNUAL REPORT TO COMMISSIONER

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

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

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

§ 4516. ANNUAL REPORT TO COMMISSIONER

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

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

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

§ 101. POLICY

It is the policy of the State of Vermont that:

* * *

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of race, religion, political affiliation, genetic information, or place of residence within the State.

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* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2022.