

1 S.247

2 moves that the House propose to the Senate that the report of the
3 Committee on Health Care be amended by striking out all after the enacting
4 clause and inserting in lieu thereof the following:

5 * * * Genetic Information and Testing * * *

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

7 § 9331. DEFINITIONS

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

9 * * *

10 (6) “Genetic information” means the results of genetic testing related to
11 an individual or other individuals who are genetically related to the individual,
12 contained in any report, interpretation, evaluation, or other record ~~thereof~~.

13 * * *

14 Sec. 2. 18 V.S.A. § 9332 is amended to read:

15 § 9332. GENETIC TESTING; LIMITATIONS

16 * * *

17 (b) A person may be required to undergo genetic testing ~~in connection with~~
18 ~~insurance subject to the limitations imposed under section 9334 of this title or~~
19 if otherwise required by law for the following reasons:

20 * * *

1 (f) Except for the provisions of subsection (b) of this section, at the time of
2 suggesting or requesting that an individual consent to genetic testing, the
3 person making the suggestion or request shall advise the individual subject of
4 the test that the results of the test:

5 (1) may become part of the individual’s permanent medical record; and

6 (2) may be material to the ability of the individual to obtain certain
7 insurance benefits.

8 Sec. 3. 18 V.S.A. § 9333 is amended to read:

9 § 9333. GENETIC TESTING; EMPLOYMENT; MEMBERSHIP IN A
10 LABOR ORGANIZATION; PROFESSIONAL LICENSURE

11 * * *

12 (b) As used in this section, “employment” includes application for
13 employment, provided that subject to the underwriting limitations of section
14 9334 of this title, this subsection shall not prohibit the use of genetic testing
15 results or genetic information in connection with life, disability income, or
16 long-term care insurance provided under an employee benefit plan.

17 * * *

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

19 § 9334. GENETIC TESTING AS A CONDITION OF INSURANCE
20 COVERAGE

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

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

5 (2) ~~the results of genetic testing of a member of the individual's family~~
6 genetic information of a person who is genetically related to the individual
7 unless the information is contained in the individual's medical record.

8 * * *

9 * * * Insurance * * *

10 **Sec. 5.** 8 V.S.A. § 4724 is amended to read:

11 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
12 DECEPTIVE ACTS OR PRACTICES DEFINED

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

15 * * *

16 (7) Unfair discrimination; arbitrary underwriting action.

17 * * *

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

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

7 * * *

8 (22) Genetic testing.

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

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

14 (ii) ~~the results of genetic testing of a member of the individual’s~~
15 ~~family unless the results are information of a person who is genetically related~~
16 ~~to the individual unless the information is contained in the individual’s medical~~
17 ~~record.~~

18 (B) Requesting, requiring, purchasing, or using information obtained
19 from an entity providing direct-to-consumer genetic testing without the
20 informed written consent of the individual who has been tested.

1 (C) Requesting or requiring in an application for insurance that an
2 individual disclose whether the individual has requested or undergone genetic
3 testing or the results of any genetic testing. Nothing in this subdivision (22)(C)
4 shall be construed to prevent or prohibit an insurer from considering
5 information in an individual’s medical record, including genetic information,
6 in a manner that is consistent with all applicable provisions of this title and
7 18 V.S.A. chapter 217.

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

11 Sec. 6. 8 V.S.A. § 5115 is amended to read:

12 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE
13 ORGANIZATIONS

14 (a) Any nonprofit health maintenance organization subject to this chapter
15 shall offer nongroup plans to individuals in accordance with section 4080b of
16 this title without discrimination based on age, gender, industry, genetic
17 information, and medical history, except as allowed by ~~subdivisions~~
18 ~~4080a(h)(2)(B) and 4080b(h)(2)(B) of this title~~ pursuant to 33 V.S.A.
19 § 1811(f)(2)(A).

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

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

2 § 4588. ANNUAL REPORT TO COMMISSIONER

3 (a) Annually, on or before March 1, a medical 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, which shall be in such form and contain such matters as the
7 Commissioner shall prescribe. To qualify for the tax exemption set forth in
8 section 4590 of this title, the statement shall include a certification that the
9 medical service corporation operates on a nonprofit basis for the purpose of
10 providing an adequate medical 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. 8. 8 V.S.A. § 4516 is amended to read:

18 § 4516. ANNUAL REPORT TO COMMISSIONER

19 (a) Annually, on or before March 1, a hospital service corporation shall file
20 with the Commissioner of Financial Regulation a statement sworn to by the
21 president and treasurer of the corporation showing its condition on

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

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

12 * * * State Assistance and Benefits * * *

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

14 § 101. POLICY

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

16 * * *

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

21 * * *

1 * * * Annual Report on Developments in Insurance Laws * * *

2 Sec. 10. DEVELOPMENTS IN GENETIC INFORMATION-RELATED

3 INSURANCE LAW; ANNUAL REPORT

4 On or before January 15 of 2023, 2024, 2025, 2026, and 2027, the

5 Commissioner of Financial Regulation shall submit to the House Committees

6 on Commerce and Economic Development and on Health Care and the Senate

7 Committees on Finance and on Health and Welfare a written report

8 summarizing the following:

9 (1) federal and state legislative action regarding the use of genetic

10 information in relation to insurance;

11 (2) the experience of states that have adopted restrictions on the use of

12 genetic information in relation to insurance, including any impacts on costs,

13 the availability of insurance products, and the stability of insurance pools;

14 (3) model laws and other information regarding the use of genetic

15 information in relation to insurance that has been published by the National

16 Association of Insurance Commissioners or the National Council of Insurance

17 Legislators; and

18 (4) any other information that the Commissioner determines to be

19 appropriate.

1 * * * Creation of Informational Materials * * *

2 Sec. 11. CREATION OF INFORMATIONAL MATERIALS;

3 DISTRIBUTION

4 (a) On or before October 1, 2022, the Department of Financial Regulation,
5 in consultation with the Department of Health and the Green Mountain Care
6 Board, shall create written materials providing information on the use of
7 genetic information in relation to insurance that can be distributed to
8 individual's as part of the informed consent process for genetic testing. The
9 materials shall include information regarding:

10 (1) the laws governing the use of genetic information in relation to
11 various types of insurance, including health, life, long-term care, and
12 disability;

13 (2) how and when insurers utilize genetic information in relation to
14 insurance policies; and

15 (3) how genetic information obtained through a genetic test may impact
16 the individual's ability to obtain insurance, including potential impacts on
17 eligibility for certain products, premiums, and conditions.

18 (b)(1) The Department of Financial Regulation, the Department of Health,
19 and the Green Mountain Care Board, in cooperation with healthcare providers,
20 appropriate professional licensing boards, and professional membership
21 associations, shall ensure that the informational materials created pursuant to

1 subsection (a) of this section are made available to all licensed health care
2 providers in Vermont on or before January 1, 2023.

3 (2) On or before January 1, 2023, the informational materials created
4 pursuant to subsection (a) of this section shall be made publicly available on
5 the websites of the Departments of Financial Regulation and of Health.

6 * * * Effective Date * * *

7 **Sec. 12.** EFFECTIVE DATE

8 This act shall take effect on July 1, 2022.