



The Honorable Bill Lippert, Chair  
House Health Care Committee  
Vermont State House

March 30, 2022

Re: S. 247, an act relating to prohibiting discrimination based on genetic information

Dear Representative Lippert and committee members:

Thank you for the opportunity to provide testimony **in opposition** to Senate Bill 247. ACLI has 280 member companies, including Vermont's own National Life Group, that are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. Each day, life insurers pay out \$3.6 million in life insurance and annuities to Vermont families and businesses. S.247 would implement life insurance underwriting prohibitions that would likely result in higher prices and fewer choices for Vermont consumers.

As you know, insurance is based on a relatively straightforward concept—a group of people can collectively bear costs that would be too great for any one member on their own. Grouping people together makes it possible for an insurer to offer affordable protection against financial loss. In addition, Vermont law requires life insurers to group together people with similar life expectancies.

In committee last week, there was much discussion about health insurance and the federal Genetic Information Nondiscrimination Act (GINA). To be clear, this bill has nothing to do with health insurance. Life insurance is very different from health insurance: it is a voluntary product, in most cases coverage is underwritten, policies may in place for a long period of time, and after a policy is issued, an insurer cannot raise the premium. It is critical to understand that underwriting is a fundamental principle that keeps life insurance affordable. A life insurer has only one opportunity to evaluate risk before a policy is issued and remains in place for decades or more. Once a policy is in place, an insurer cannot cancel it or raise premiums because of subsequent health information or test results. Proper risk classification ensures the solvency of insurers and their ability to pay claims for all policyholders. For this reason, it is very important that life insurers have access to accurate and complete information about an applicant's health, including their full medical record, which may include genetic information and family medical history.

Vermont already has strong consumer protections regarding the use of genetic information in life insurance underwriting. 18 V.S.A. § 9332 prevents insurers from underwriting or conditioning insurance on the requirement to undergo genetic testing or on the results of genetic testing of a family member. 8 V.S.A. § 4724 provides that insurers may not unfairly discriminate against an

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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individual by conditioning rates or the provision of coverage 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.

GINA protects individuals from discrimination by health insurers and employers based on their genetic makeup. Congress specifically excluded life and disability income (DI) insurers from the law because of their unique products and markets. Long-term care (LTC) insurance was also excluded in 2010 based on subsequent review of the Department of Health and Human Services.

The American College of Medical Genetics and Genomics (ACMG) also does not support restricting the use of genetic information by life, LTC or DI insurers. The ACMG says that while GINA protections “are based on the belief that people should have a general right to basic health care, there is not a similar consensus that people have a general right to purchase life or disability insurance. Furthermore, while it may be ‘inherently unfair to penalize someone for their genetic makeup,’ it may also be unfair when individuals learn about their own genetic makeup and then use that information to decide whether they purchase life or disability insurance while withholding this information from the insurer. Prohibiting insurers from using genetic information in life and disability insurance may thus introduce a problematic imbalance in how such information might be used. This may adversely alter insurance underwriting in a way that has unanticipated consequences for both the industry and the individuals who are, or wish to be, insured.”<sup>1</sup>

S.247 would result in adverse selection, the single greatest threat to insurers’ ability to price risk appropriately. Adverse selection occurs when an applicant has information—such as genetic information—that increases their risk, but they do not disclose that information to the insurer. This results in the insurer assigning the applicant to a lower risk pool than it would if it had all relevant information. Adverse selection may lead to increased premiums for all risk classes and decreased availability of coverage. To avoid adverse selection, there must be a level playing field of information between the applicant and the insurer. If a person withholds important info about their mortality risk, the insurer will not be able to properly price the policy. And applicants who are honest about their risk may pay more. This is a matter of fairness.

In a 2016 Burlington Free Press article, Dr. Leonard said that “Taking a patient’s genetic information is no different than taking her blood pressure, temperature, heart rate, height and weight.” Life insurers agree with this statement. Like the results of other medical tests, genetic test results are also not definitive; they do not dictate the issuance or non-issuance of a policy. Life insurance underwriters take a holistic approach to evaluating risk and consider a wide range of factors, including the steps a person might be taking to manage their health risks. For example, a person with heart disease that is taking appropriate medications may pay lower rates than a person who is doing nothing to address their health risks. Knowledge of a genetic condition may encourage people to take a more active role in their personal health, which in turn may place them in a better risk category.

To this end, it is important to understand that this bill would also prevent consumers from using their own genetic information to their advantage when applying for insurance. A person with a family medical history of a genetic condition who obtains favorable genetic test results (i.e. the test shows that they do not possess the genetic mutation that causes their familial condition) may not offer those test results for consideration by a life insurer to obtain a more favorable rate.

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<sup>1</sup> [https://www.gimjournal.org/article/S1098-3600\(21\)05379-X/fulltext](https://www.gimjournal.org/article/S1098-3600(21)05379-X/fulltext)

ACLI members are committed to a robust and competitive insurance market that offers a variety of products that are affordable and meet consumers' insurance needs. They want to provide life insurance products to as many people as possible, but also want to price those products accurately and make them as affordable as possible for all consumers. The COVID-19 pandemic has shown us how important it is for Vermonters of all income levels to be able to secure financial protection for ourselves and our families.

Life insurance companies have been able to provide affordable coverage because applicants have shared with consent their complete medical records. It only makes sense that if a life insurance company is going to make a long-term promise, it knows an applicant's true health condition. Vermont consumers have long benefitted from the accuracy, transparency, and confidentiality in the underwriting process. S.247 would upend that process and disadvantage Vermont consumers looking to secure their financial futures.

Thank you for your time. I'd be happy to answer any questions you may have.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, representing the name Jill Rickard.

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