

ACLI Proposed Amendment 2/15/22

BILL AS INTRODUCED

2022

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. Section 9331 is amended to read:

Section 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

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

* * *

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

Section 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) the fact that the individual or a member of the individual's family participated in genetic research, including any request for or receipt of genetic services, or clinical research that includes genetic services, unless the results of that research are included in the individual's medical records or provided by the individual for consideration of the insurer; 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 of genetic information of a member of the individual's family.

(b) Notwithstanding subsection (a) of this section, with respect to life insurance, long term care insurance, or disability income protection coverage, an insurance company or its agent may condition rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of

the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

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* * * Insurance * * *

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

Section 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~~ Issue a policy of insurance or make an agreement other than that plainly expressed in the policy issued to the insured; ~~;~~ .

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

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

(4) ~~provide~~ 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) the fact that the individual or a member of the individual's family participated in genetic research, including any request for or receipt of genetic services, or clinical research that includes genetic services, unless the results of that research are included in the individual's medical records or provided by the individual for consideration of the insurer; 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.

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

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (5), a life insurance company or its agent may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

(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. Section 4724 is amended to read:

Section 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. Section 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) the fact that the individual or a member of the individual's family participated in genetic research, including any request for or receipt of genetic services, or clinical research that includes genetic services, unless the results of that research are included in the individual's medical records or provided by the individual for consideration of the insurer 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.

(ii) As used in this subdivision (7)(F), "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. Section 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) the fact that the individual or a member of the individual's family participated in genetic research, including any request for or receipt of genetic services, or clinical research that includes genetic services, unless the results of that research are included in the individual's medical records or provided by the individual for consideration of the insurer 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 genetic information of a member of the individual's family unless the results are contained in the individual's medical record.

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

(C) Notwithstanding subdivision (7D) or subsection (22) of this section, with respect to life insurance, long term care insurance, or disability income protection coverage, an insurance company or its agent may condition rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

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

Section 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. Section 1811(f)(2)(A).

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

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

Section 8086. PREEXISTING CONDITIONS: GENETIC TESTING

* * *

(b)(1) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement which that is the result of a preexisting condition, unless such the 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, or other conditions of insurance for any individual on:

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

(ii) the fact that the individual or a member of the individual's family participated in genetic research, including any request for or receipt of genetic services, or clinical research that includes genetic services, unless the results of that research are included in the individual's medical records or provided by the individual for consideration of the insurer 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.

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

(C) Notwithstanding subdivision (b(1)) of this section, with respect to long term care insurance, an insurance company or its agent may condition rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

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* * * Social and Medical Services * * *

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

Section 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. Section 1811(f)(2)(A).

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

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

Section 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. Section 1811(f)(2)(A).

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

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

Section 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.