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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 536      Session of  
2005

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INTRODUCED BY READSHAW, BEBKO-JONES, BISHOP, CALTAGIRONE, CURRY,  
DALEY, FREEMAN, GEORGE, JOSEPHS, LEACH, MANDERINO, MCGEEHAN,  
MCILHATTAN, MELIO, B. SMITH, STABACK, STURLA, TANGRETTI,  
THOMAS, TIGUE, VEON, WALKO, WHEATLEY, WOJNAROSKI AND WRIGHT,  
FEBRUARY 15, 2005

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REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 15, 2005

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AN ACT

1 Prohibiting discrimination in insurance coverage on the basis of  
2 genetic information or a request for genetic services.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Genetic  
7 Information Nondiscrimination in Insurance Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) New genetic discoveries have the potential to  
11 improve medical care for many Pennsylvanians.

12 (2) Legitimate medical uses of genetic testing are  
13 beneficial and should be encouraged.

14 (3) Genetic information is uniquely personal information  
15 that should not be collected, retained or disclosed without  
16 an individual's authorization.

1           (4) The improper collection, retention or disclosure of  
2       genetic information can lead to significant harm to an  
3       individual, including discrimination in insurance.

4           (5) Current law does not adequately protect individuals  
5       from discrimination in insurance on the basis of genetic  
6       information.

7       Section 3. Definitions.

8       The following words and phrases when used in this act shall  
9       have the meanings given to them in this section unless the  
10      context clearly indicates otherwise:

11      "Genetic information." Information about genes, gene  
12      products, or inherited characteristics that may derive from an  
13      individual or with respect to that individual, another  
14      individual related by blood to that individual, or a spouse or  
15      adopted child of the individual.

16      "Genetic services." Health services provided to obtain,  
17      assess and interpret genetic information for diagnostic and  
18      therapeutic purposes and for genetic education and counseling.

19      "Insurance agreement." An insurance policy, contract or  
20      group insurance certificate issued by an insurer.

21      "Insurer." Any legal entity engaged in the business of  
22      insurance, including any individual, corporation, association,  
23      reciprocal hospital company, nonprofit professional health  
24      service plan, health maintenance organization, fraternal benefit  
25      society, risk-bearing or nonrisk-bearing preferred provider  
26      organization subject to the provisions of section 630 of the act  
27      of May 17, 1921 (P.L.682, No.284), known as The Insurance  
28      Company Law of 1921, or self-insured health plan not regulated  
29      under the Employee Retirement Income Security Act of 1974  
30      (Public Law 93-406, 88 Stat. 829).

1 Section 4. Discrimination prohibited.

2 An insurer may not:

3 (1) Deny, cancel, limit or refuse to renew an insurance  
4 agreement or vary the premiums, terms or conditions for an  
5 insurance agreement for any participant, beneficiary or  
6 applicant for coverage as a participant or beneficiary:

7 (i) on the basis of genetic information; or

8 (ii) on the basis that the individual or a family  
9 member of the individual has requested or received  
10 genetic services.

11 (2) Request or require a participant, beneficiary or  
12 applicant for coverage as a participant or beneficiary to  
13 obtain or disclose genetic information about the individual  
14 or a family member of the individual.

15 (3) Request or require a participant, beneficiary or  
16 applicant for coverage as a participant or beneficiary to  
17 reveal whether or not the individual or a family member of  
18 the individual has obtained genetic information.

19 (4) Disclose any genetic information about an individual  
20 or a family member of the individual without the explicit  
21 written consent of the individual from whom the information  
22 was derived.

23 Section 5. Penalties.

24 (a) General rule.--Any violation of this act by an insurer  
25 shall be deemed an unfair insurance practice as defined in  
26 section 5 of the act of July 22, 1974 (P.L.589, No.205), known  
27 as the Unfair Insurance Practices Act, and shall be subject to  
28 the penalties provided under that act.

29 (b) Cause of action.--Any individual who is harmed as a  
30 result of a violation of this act shall have a civil cause of

1 action against the insurer whose violation caused the harm. In  
2 any such action, the insurer may in the court's discretion be  
3 liable for compensatory, consequential and punitive damages.

4 Section 6. Enforcement.

5 The Insurance Commissioner shall have the same powers to  
6 enforce this act as provided in the act of July 22, 1974  
7 (P.L.589, No.205), known as the Unfair Insurance Practices Act.

8 Section 7. Effective date.

9 This act shall take effect in 60 days.