
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 171 Session of
2003

INTRODUCED BY SCHWARTZ, M. WHITE, TOMLINSON, COSTA, TARTAGLIONE,
KITCHEN, C. WILLIAMS, EARLL, STOUT, ORIE, WAGNER, MUSTO AND
KASUNIC, FEBRUARY 5, 2003

REFERRED TO BANKING AND INSURANCE, FEBRUARY 5, 2003

AN ACT

1 Prohibiting discrimination in health insurance 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 Health Insurance Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) The completion of the mapping of the human genome
11 will lead to new genetic discoveries that will have the
12 potential to improve medical care for many Pennsylvanians.

13 (2) Genetic testing will lead to more effective
14 therapies and screenings for genetic diseases. Testing is
15 beneficial and should be encouraged.

16 (3) Genetic information is knowledge about genes, gene
17 products or inherited characteristics that may derive from an

individual or a family member that should not be collected, retained or disclosed without an individual's authorization.

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

(5) Scientists and others working in the field of responsible genetics have identified over 200 cases in which healthy individuals were denied insurance or employment on the basis of predictive genetic information.

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

Section 3. Definitions.

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

"Genetic information." Information about the genes, gene products or inherited characteristics of an individual.

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

"Health insurance agreement." An accident and health insurance policy, contract or group insurance certificate issued by an insurer.

"Insurer." Any legal entity engaged in the business of insurance, including any individual, corporation, association, reciprocal hospital company, nonprofit professional health service plan, health maintenance organization, fraternal benefit society, risk-bearing or nonrisk-bearing preferred provider organization subject to the provisions of section 630 of the act

1 of May 17, 1921 (P.L.682, No.284), known as The Insurance
2 Company Law of 1921, or self-insured health plan not regulated
3 under the Employee Retirement Income Security Act of 1974
4 (Public Law 93-406, 88 Stat. 829).

5 Section 4. Discrimination prohibited.

6 An insurer may not:

7 (1) Deny, cancel, limit or refuse to renew a health
8 insurance agreement or vary the premiums, terms or conditions
9 for a health insurance agreement for any participant,
10 beneficiary or applicant for coverage as a participant or
11 beneficiary:

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

13 (ii) on the basis that the individual or a family
14 member of the individual has requested or received
15 genetic services.

16 (2) Request or require a participant, beneficiary or
17 applicant for coverage as a participant or beneficiary to
18 obtain or disclose genetic information about the individual
19 or a family member of the individual.

20 (3) Request or require a participant, beneficiary or
21 applicant for coverage as a participant or beneficiary to
22 reveal whether or not the individual or a family member of
23 the individual has obtained genetic information.

24 (4) Disclose any genetic information about an individual
25 or a family member of the individual without the explicit
26 written consent of the individual from whom the information
27 was derived.

28 Section 5. Penalties.

29 (a) General rule.--Any violation of this act by an insurer
30 shall be deemed an unfair insurance practice as defined in

1 section 5 of the act of July 22, 1974 (P.L.589, No.205), known
2 as the Unfair Insurance Practices Act, and shall be subject to
3 the penalties provided under that act.

4 (b) Cause of action.--Any individual who is harmed as a
5 result of a violation of this act shall have a civil cause of
6 action against the insurer whose violation caused the harm. In
7 any such action, the insurer may in the court's discretion be
8 liable for compensatory, consequential and punitive damages.

9 Section 6. Enforcement.

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

13 Section 7. Effective date.

14 This act shall take effect in 60 days.