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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 1905

March 12, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to insurance; regulating the use of genetic information; providing
1.3 enforcement authority; amending Minnesota Statutes 2006, section 72A.139.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2006, section 72A.139, is amended to read:

1.6 **72A.139 USE OF GENETIC TESTS.**

1.7 Subdivision 1. **Name and citation.** This section shall be known and may be cited as
1.8 the "Genetic Insurance Discrimination Act."

1.9 Subd. 2. **Definitions.** (a) As used in this section, "commissioner" means the
1.10 commissioner of commerce for health plan companies and other insurers regulated by
1.11 that commissioner and the commissioner of health for health plan companies regulated by
1.12 that commissioner.

1.13 (b) As used in this section, a "genetic test" means a metabolites presymptomatic
1.14 test, examination, or analysis of a person's DNA, RNA, mitochondrial DNA, genetically
1.15 encoded proteins, genes, gene products, or chromosomes for the purpose of determining
1.16 the presence or absence of a gene or genes, genotypes, mutations, or chromosomal changes
1.17 that exhibit inherited or acquired abnormalities, defects, or deficiencies, or characteristics,
1.18 including carrier status, that are known to be the cause of a disease or disorder, or are
1.19 determined to be associated with a statistically increased risk of development of a disease
1.20 or disorder. "Genetic test" does not include a cholesterol test or other test not conducted
1.21 for the purpose of determining the presence or absence of a person's gene or genes.

1.22 (c) As used in this section, "health plan" has the meaning given in section 62Q.01,
1.23 subdivision 3.

2.1 (d) As used in this section, "health plan company" has the meaning given in section
2.2 62Q.01, subdivision 4.

2.3 (e) As used in this section, "individual" means an applicant for coverage or a person
2.4 already covered by the health plan company or other insurer, whether under individual
2.5 or group coverage.

2.6 (f) As used in this section, "insurer" has the meaning given in section 72A.201,
2.7 subdivision 3.

2.8 Subd. 3. **Prohibited acts; health plan companies.** A health plan company, in
2.9 determining eligibility for coverage, establishing premiums, limiting coverage, renewing
2.10 coverage, or any other underwriting decision, shall not, in connection with the offer,
2.11 sale, issuance, or renewal of a health plan:

2.12 (1) require or request an individual or a blood relative of the individual to take
2.13 a genetic test;

2.14 (2) make any inquiry to determine whether an individual or a blood relative of the
2.15 individual has taken or refused a genetic test, or what the results of any such test were;

2.16 (3) take into consideration the fact that a genetic test was taken or refused by an
2.17 individual or blood relative of the individual; or

2.18 (4) take into consideration the results of a genetic test taken by an individual or a
2.19 blood relative of the individual.

2.20 Subd. 3a. **Prohibitions; life, disability income, and long-term care insurance.** (a)
2.21 No insurer shall, in determining eligibility for coverage, establishing premiums, limiting
2.22 coverage, renewing coverage, or making any other underwriting decision, in connection
2.23 with the offer, sale, issuance, or renewal of life, disability income, or long-term care
2.24 insurance, whether under individual or group coverage:

2.25 (1) require or request an individual or a blood relative of the individual to take a
2.26 genetic test, except as permitted under paragraph (b);

2.27 (2) ask, on an application for the coverage or otherwise, whether the individual
2.28 has taken or refused a genetic test, unless the question is accompanied by a statement
2.29 indicating that the individual is not required to answer the question and also indicating that
2.30 a failure to answer the question may result in a denial of the application for coverage, a
2.31 higher premium rate, or other adverse underwriting decision;

2.32 (3) use the results of a genetic test of a blood relative of the individual unless the
2.33 results are contained in the individual's medical record; or

2.34 (4) use the results of a genetic test of the individual or of the individual's blood
2.35 relatives in violation of section 72A.20, subdivision 19.

3.1 (b) If an insurer has determined that an individual may have a genetic disease or
 3.2 disorder, or a tendency to develop it, and that determination would result in an adverse
 3.3 underwriting decision covered by paragraph (a), the insurer may offer the individual the
 3.4 opportunity to take a genetic test to determine whether the individual does have that
 3.5 genetic disease, disorder, or tendency. This paragraph applies only if paragraph (a) does
 3.6 not prohibit the insurer from making or using the determination for underwriting purposes.
 3.7 An offer from an insurer under this paragraph is subject to subdivisions 4, 5, 6, and 7.

3.8 Subd. 4. **Application.** Subdivisions 5, 6, and 7 apply only to ~~a life insurance~~
 3.9 ~~company or fraternal benefit society requiring~~ an insurer offering an individual the
 3.10 ~~opportunity to take a genetic test for the purpose of determining insurability under a policy~~
 3.11 ~~of life insurance~~ under subdivision 3a, paragraph (b).

3.12 Subd. 5. **Informed consent.** If an individual agrees to take a genetic test under
 3.13 subdivision 3a, paragraph (b), the ~~life insurance company or fraternal benefit society~~
 3.14 insurer shall obtain the individual's written informed consent for the test. Written informed
 3.15 consent must include, at a minimum, a description of the specific test to be performed;
 3.16 its purpose, potential uses, and limitations; the meaning of its results; and the right to
 3.17 confidential treatment of the results. The written informed consent must inform the
 3.18 individual that the individual should consider consulting with a genetic counselor prior to
 3.19 taking the test and must state whether the insurer will pay for any such consultation. An
 3.20 informed consent disclosure form must be approved by the commissioner prior to its use.

3.21 Subd. 6. **Notification.** The ~~life insurance company or fraternal benefit society~~
 3.22 insurer shall notify an individual of a genetic test result under subdivision 3a, paragraph
 3.23 (b), by notifying the individual or the individual's designated physician. If the individual
 3.24 tested has not given written consent authorizing a physician to receive the test results, the
 3.25 insurer must urge the individual ~~must be urged~~, at the time that the insurer informs the
 3.26 individual is informed of the genetic test result described in this subdivision, to contact a
 3.27 genetic counselor or other health care professional.

3.28 Subd. 7. **Payment for test.** ~~A life insurance company or fraternal benefit society~~
 3.29 An insurer shall not ~~require~~ offer an individual the opportunity to submit to a genetic test
 3.30 under subdivision 3a, paragraph (b), unless the cost of the test is paid by the ~~life insurance~~
 3.31 ~~company or fraternal benefit society~~ insurer.

3.32 Subd. 8. **Enforcement.** (a) A violation of this section is subject to the investigative
 3.33 and enforcement authority of the commissioner, who shall enforce this section. A violation
 3.34 of this section is an unfair method of competition or an unfair or deceptive act or practice
 3.35 in the business of insurance within the meaning of section 72A.19, subdivision 1.

4.1 (b) A violation of this section creates a private cause of action under section 8.31,
4.2 subdivision 3.

4.3 **Sec. 2. EFFECTIVE DATE.**

4.4 Section 1 is effective January 1, 2008, and applies to policies applied for, issued,
4.5 or renewed on or after that date.