

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 350*

Short Title: Genetic Info/No Discrimination.

(Public)

Sponsors: Representatives Dickson; and Morris.

Referred to: Insurance.

February 27, 1997

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT BASED ON GENETIC INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-130(a)(1) reads as rewritten:

"(1) Except in the case of a late enrollee, any preexisting-conditions provision may not limit or exclude coverage for a period beyond 12 months following the insured's initial effective date of coverage and must define preexisting conditions as 'those conditions for which medical ~~advice~~ advice, diagnosis, care, or treatment was received or recommended or that could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage'. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to the genetic information. As used in this section, the term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member."

Section 2. G.S. 58-51-15(a)(2) reads as rewritten:

"(2) A provision in the substance of the following language:

TIME LIMIT ON CERTAIN DEFENSES:

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1 a. After two years from the date of issue or reinstatement of this
2 policy no misstatements except fraudulent misstatements made
3 by the applicant in the application for such policy shall be used to
4 void the policy or deny a claim for loss incurred or disability (as
5 defined in the policy) commencing after the expiration of such
6 two-year period.

7 The foregoing policy provisions may be used in its entirety
8 only in major or catastrophe hospitalization policies and major
9 medical policies each affording benefits of five thousand dollars
10 (\$5,000) or more for any one sickness or injury. Disability
11 income policies affording benefits of one hundred dollars
12 (\$100.00) or more per month for not less than 12 months and
13 franchise policies. Other policies to which this section applies
14 must delete the words 'except fraudulent misstatements.'

15 (The foregoing policy provision shall not be so construed as to affect
16 any legal requirement for avoidance of a policy or denial of a claim
17 during such initial two-year period, nor to limit the application of G.S.
18 58-51-15(b), (1), (2), (3), (4) and (5) in the event of misstatement with
19 respect to age or occupation or other insurance.)

20 (A policy which the insured has the right to continue in force
21 subject to its terms by the timely payment of premium:

- 22 1. Until at least age 50 or,
- 23 2. In the case of a policy issued after age 44, for at least five
24 years from its date of issue, may contain in lieu of the
25 foregoing the following provisions (from which the clause
26 in parentheses may be omitted at the insurer's option)
27 under the caption 'INCONTESTABLE.'

28 After this policy has been in force for a period of two years during
29 the lifetime of the insured (excluding any period during which the
30 insured is disabled), it shall become incontestable as to the statements
31 contained in the application.)

32 b. This policy contains a provision limiting coverage for preexisting
33 conditions. Preexisting conditions must be covered no later than
34 one year after the effective date of coverage. Preexisting
35 conditions are defined as 'those conditions for which medical
36 ~~advice~~ advice, diagnosis, care, or treatment was received or
37 recommended or that could be medically documented within the
38 one-year period immediately preceding the effective date of the
39 person's coverage.' Preexisting conditions exclusions may not be
40 implemented by any successor plan as to any covered persons
41 who have already met all or part of the waiting period
42 requirements under any previous plan. Credit must be given for
43 that portion of the waiting period that was met under the previous

1 plan. As used in this policy, the term 'previous plan' includes
2 any health benefit plan provided by a health insurer, as those
3 terms are defined in G.S. 58-51-115, or any government plan or
4 program providing health benefits or health care. In determining
5 whether a preexisting condition provision applies to an insured
6 person, all health benefit plans must credit the time the person
7 was covered under a previous plan if the previous plan's coverage
8 was continuous to a date not more than 60 days before the
9 effective date of the new coverage, exclusive of any applicable
10 waiting period under the new coverage. Genetic information shall
11 not be treated as a preexisting condition in the absence of a
12 diagnosis of the condition related to the genetic information. As
13 used in this section, the term 'genetic information' means
14 information about genes, gene products, or inherited
15 characteristics that may derive from an individual or a family
16 member."

17 Section 3. G.S. 58-51-80(b)(2) reads as rewritten:

18 "(2) ~~For employer groups of 50 or more persons no evidence of individual~~
19 ~~insurability may be required at the time the person first becomes eligible~~
20 ~~for insurance or within 31 days thereafter except for any insurance~~
21 ~~supplemental to the basic coverage for which evidence of individual~~
22 ~~insurability may be required. With respect to trustee groups the phrase~~
23 ~~"groups of 50" must be applied on a participating unit basis for the~~
24 ~~purpose of requiring individual evidence of insurability. An accident~~
25 ~~and health insurance company shall not establish rules for eligibility~~
26 ~~(including continued eligibility) for any individual to enroll under the~~
27 ~~terms of the plan based on any of the following health status-related~~
28 ~~factors in relation to the individual or a dependent of the individual:~~

- 29 a. Health status,
30 b. Medical conditions (including both physical and mental
31 illnesses),
32 c. Claims experience,
33 d. Receipt of health care,
34 e. Medical history,
35 f. Genetic information,
36 g. Evidence of insurability (including conditions arising out of acts
37 of domestic violence), and
38 h. Disability.

39 An accident and health insurance company shall not require an individual to pay a
40 premium or contribution which is greater than that charged to a similarly situated
41 individual on the basis of any health status-related factor. An accident and health
42 insurance company shall not raise the premium or contribution rates paid by the group on
43 the basis of genetic information obtained about an individual member of the group."

1 Section 4. G.S. 58-51-80(b)(3) reads as rewritten:

2 "(3) Policies may contain a provision limiting coverage for preexisting
3 conditions. Preexisting conditions must be covered no later than 12
4 months after the effective date of coverage. Preexisting conditions are
5 defined as 'those conditions for which medical ~~advice~~ advice, diagnosis,
6 care, or treatment was received or recommended or which could be
7 medically documented within the 12-month period immediately
8 preceding the effective date of the person's coverage.' Preexisting
9 conditions exclusions may not be implemented by any successor plan as
10 to any covered persons who have already met all or part of the waiting
11 period requirements under any previous plan. Credit must be given for
12 that portion of the waiting period which was met under the previous
13 plan. As used in this subdivision, a 'previous plan' includes any health
14 benefit plan provided by a health insurer, as those terms are defined in
15 G.S. 58-51-115, or any government plan or program providing health
16 benefits or health care. For employer groups of 50 or more persons and
17 for groups under subdivision (1a) of this subsection and under G.S. 58-
18 51-81: In determining whether a preexisting condition provision applies
19 to an eligible employee, association member, student, or to a dependent,
20 all health benefit plans shall credit the time the person was covered
21 under a previous plan if the previous plan's coverage was continuous to
22 a date not more than 60 days before the effective date of the new
23 coverage, exclusive of any applicable waiting period under the new
24 coverage. Genetic information shall not be treated as a preexisting
25 condition in the absence of a diagnosis of the condition related to the
26 genetic information. As used in this section, the term 'genetic
27 information' means information about genes, gene products, or inherited
28 characteristics that may derive from an individual or a family member."

29 Section 5. G.S. 58-65-60(e)(1) reads as rewritten:

30 "~~(1) For employer groups of 50 or more persons no evidence of individual~~
31 ~~insurability may be required at the time the person first becomes eligible~~
32 ~~for coverage or within 31 days thereafter except for any insurance~~
33 ~~supplemental to the basic coverage for which evidence of individual~~
34 ~~insurability may be required. With respect to trustee groups the phrase~~
35 ~~"groups of 50" must be applied on a participating unit basis for the~~
36 ~~purpose of requiring individual evidence of insurability. A hospital or~~
37 ~~medical service corporation shall not establish rules for eligibility~~
38 ~~(including continued eligibility) for any individual to enroll under the~~
39 ~~terms of the plan based on any of the following health status-related~~
40 ~~factors in relation to the individual or a dependent of the individual:~~

41 a. Health status,

42 b. Medical conditions (including both physical and mental
43 illnesses),

- 1 c. Claims experience,
2 d. Receipt of health care,
3 e. Medical history,
4 f. Genetic information,
5 g. Evidence of insurability (including conditions arising out of acts
6 of domestic violence), and
7 h. Disability.

8 A hospital or medical service corporation shall not require an individual to pay a
9 premium or contribution which is greater than that charged to a similarly situated
10 individual on the basis of any health status-related factor. A hospital or medical service
11 corporation shall not raise the premium or contribution rates paid by the group on the
12 basis of genetic information obtained about an individual member of the group."

13 Section 6. G.S. 58-65-60(e)(2) reads as rewritten:

14 "(2) Employer master group contracts may contain a provision limiting
15 coverage for preexisting conditions. Preexisting conditions must be
16 covered no later than 12 months after the effective date of coverage.
17 Preexisting conditions are defined as 'those conditions for which
18 medical ~~adviee~~ advice, diagnosis, care, or treatment was received or
19 recommended or which could be medically documented within the 12-
20 month period immediately preceding the effective date of the person's
21 coverage.' Preexisting conditions exclusions may not be implemented
22 by any successor plan as to any covered persons who have already met
23 all or part of the waiting period requirements under any prior group
24 plan. Credit must be given for that portion of the waiting period which
25 was met under the prior plan. For employer groups of 50 or more
26 persons: In determining whether a preexisting condition provision
27 applies to an eligible employee or to a dependent, all health benefit
28 plans shall credit the time the person was covered under a previous
29 group health benefit plan if the previous coverage was continuous to a
30 date not more than 60 days before the effective date of the new
31 coverage, exclusive of any applicable waiting period under the new
32 coverage. Genetic information shall not be treated as a preexisting
33 condition in the absence of a diagnosis of the condition related to the
34 genetic information. As used in this section, the term 'genetic
35 information' means information about genes, gene products, or inherited
36 characteristics that may derive from an individual or a family member."

37 Section 7. G.S. 58-67-85(b) reads as rewritten:

38 "~~(b) For employer groups of 50 or more persons no evidence of individual~~
39 ~~insurability may be required at the time the person first becomes eligible for insurance or~~
40 ~~within 31 days thereafter except for any insurance supplemental to the basic coverage for~~
41 ~~which evidence of individual insurability may be required. With respect to trustee~~
42 ~~groups the phrase "groups of 50" must be applied on a participating unit basis for the~~
43 ~~purpose of requiring individual evidence of insurability. An HMO shall not establish~~

1 rules for eligibility (including continued eligibility) for any individual to enroll under the
2 terms of the plan based on any of the following health status-related factors in relation to
3 the individual or a dependent of the individual:

4 (1) Health status,

5 (2) Medical conditions (including both physical and mental illnesses),

6 (3) Claims experience,

7 (4) Receipt of health care,

8 (5) Medical history,

9 (6) Genetic information,

10 (7) Evidence of insurability (including conditions arising out of acts of
11 domestic violence), and

12 (8) Disability.

13 An HMO shall not require an individual to pay a premium or contribution which is
14 greater than that charged to a similarly situated individual on the basis of any health
15 status-related factor. An HMO shall not raise the premium or contribution rates paid by
16 the group on the basis of genetic information obtained about an individual member of the
17 group."

18 Section 8. G.S. 58-67-85(c) reads as rewritten:

19 "(c) Employer master group contracts may contain a provision limiting coverage
20 for preexisting conditions. Preexisting conditions must be covered no later than 12
21 months after the effective date of coverage. Preexisting conditions are defined as 'those
22 conditions for which medical ~~advice~~-advice, diagnosis, care, or treatment was received or
23 recommended or which could be medically documented within the 12-month period
24 immediately preceding the effective date of the person's coverage.' Preexisting conditions
25 exclusions may not be implemented by any successor plan as to any covered persons who
26 have already met all or part of the waiting period requirements under any previous plan.
27 Credit must be given for that portion of the waiting period which was met under the
28 previous plan. As used in this subsection, a 'previous plan' includes any health benefit
29 plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any
30 government plan or program providing health benefits or health care. In determining
31 whether a preexisting condition provision applies to an eligible employee or to a
32 dependent, all health benefit plans shall credit the time the person was covered under a
33 previous plan if the previous plan's coverage was continuous to a date not more than 60
34 days before the effective date of the new coverage, exclusive of any applicable waiting
35 period under the new coverage. Genetic information shall not be treated as a preexisting
36 condition in the absence of a diagnosis of the condition related to the genetic information.
37 As used in this section, the term 'genetic information' means information about genes,
38 gene products, or inherited characteristics that may derive from an individual or a family
39 member."

40 Section 9. Article 51 of Chapter 58 of the General Statutes is amended by
41 adding the following new section to read:

42 **"§ 58-51-45A. Denial of coverage based on genetic information prohibited.**

1 No entity licensed in this State pursuant to the provisions of Articles 1 through 67 of
2 this Chapter shall refuse to issue or deliver any policy (regardless of whether any of such
3 policies shall be defined as individual, family, group, blanket, franchise, industrial, or
4 otherwise) which is currently being issued for delivery in this State and which affords
5 benefits or coverage for any medical treatment or service authorized or permitted to be
6 furnished by a hospital, clinic, family health plan, neighborhood health plan, health
7 maintenance organization, physician, physician's assistant, nurse practitioner, or any
8 medical service facility or personnel based on genetic information obtained about the
9 person to be insured, nor shall any such policy issued and delivered in this State carry a
10 higher premium rate or charge by reason of the genetic information. The term 'genetic
11 information' means information about genes, gene products, or inherited characteristics
12 that may derive from an individual or a family member."

13 Section 10. Article 3 of Chapter 95 of the General Statutes is amended by
14 adding the following new section to read:

15 **"§ 95-28.2A. Discrimination against persons based on genetic testing or genetic**
16 **information prohibited.**

17 (a) No person, firm, corporation, unincorporated association, State agency, unit of
18 local government, or any public or private entity shall deny or refuse employment to any
19 person or discharge any person from employment on account of the person's having
20 requested genetic testing or counseling services, or on the basis of genetic information
21 obtained concerning the person or a member of the person's family. This section shall
22 not be construed to prevent the person from being discharged for cause.

23 (b) As used in this section, the term 'genetic test' means a test for determining the
24 presence or absence of genetic characteristics in an individual or a member of the
25 individual's family in order to diagnose a genetic condition or characteristic or ascertain
26 susceptibility to a genetic condition. The term 'genetic characteristic' means any
27 scientifically or medically identifiable genes or chromosomes, or alterations or products
28 thereof, which are known individually or in combination with other characteristics to be a
29 cause of a disease or disorder, or determined to be associated with a statistically increased
30 risk of development of a disease or disorder, and which are asymptomatic of any disease
31 or disorder. The term 'genetic information' means information about genes, gene
32 products, or inherited characteristics that may derive from an individual or a family
33 member."

34 Section 11. Nothing in this act applies to specified accident, specified disease,
35 hospital indemnity, disability, or long-term care health insurance policies.

36 Section 12. This act becomes effective July 1, 1997.