

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 254*

Pensions & Retirement and Insurance Committee Substitute Adopted 4/3/97

Short Title: Genetic Info/No Discrimination.

(Public)

Sponsors:

Referred to:

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:

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TIME LIMIT ON CERTAIN DEFENSES:

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

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

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

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

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

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

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

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

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

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

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

40 An accident and health insurance company shall not require an individual to pay a
41 premium or contribution which is greater than that charged to a similarly situated
42 individual on the basis of any health status-related factor. An accident and health

1 insurance company shall not raise the premium or contribution rates paid by the group on
2 the basis of genetic information obtained about an individual member of the group."

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

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

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

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

43 a. Health status,

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

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

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

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

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

40 "~~(b) For employer groups of 50 or more persons no evidence of individual~~
41 ~~insurability may be required at the time the person first becomes eligible for insurance or~~
42 ~~within 31 days thereafter except for any insurance supplemental to the basic coverage for~~
43 ~~which evidence of individual insurability may be required. With respect to trustee~~

~~groups the phrase "groups of 50" must be applied on a participating unit basis for the purpose of requiring individual evidence of insurability. An HMO shall not establish rules for eligibility (including continued eligibility) for any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:~~

- ~~(1) Health status,~~
- ~~(2) Medical conditions (including both physical and mental illnesses),~~
- ~~(3) Claims experience,~~
- ~~(4) Receipt of health care,~~
- ~~(5) Medical history,~~
- ~~(6) Genetic information,~~
- ~~(7) Evidence of insurability (including conditions arising out of acts of domestic violence), and~~
- ~~(8) Disability.~~

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

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

"(c) Employer master group contracts may contain a provision limiting coverage for preexisting conditions. Preexisting conditions must be covered no later than 12 months after the effective date of coverage. Preexisting conditions are defined as 'those conditions for which medical ~~advice~~ advice, diagnosis, care, or treatment was received or recommended or which could be medically documented within the 12-month period immediately preceding the effective date of the person's coverage.' Preexisting conditions exclusions may not be implemented by any successor plan as to any covered persons who have already met all or part of the waiting period requirements under any previous plan. Credit must be given for that portion of the waiting period which was met under the previous plan. As used in this subsection, a 'previous plan' includes any health benefit plan provided by a health insurer, as those terms are defined in G.S. 58-51-115, or any government plan or program providing health benefits or health care. In determining whether a preexisting condition provision applies to an eligible employee or to a dependent, all health benefit plans shall credit the time the person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than 60 days before the effective date of the new coverage, exclusive of any applicable waiting period under the new 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 9. Article 51 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

1 **"§ 58-51-45A. Denial of coverage based on genetic information prohibited.**

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

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

16 **"§ 95-28.1A. Discrimination against persons based on genetic testing or genetic**
17 **information prohibited.**

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

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

35 Section 11. G.S. 95-241(a) reads as rewritten:

36 "(a) No person shall discriminate or take any retaliatory action against an employee
37 because the employee in good faith does or threatens to do any of the following:

38 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
39 proceeding or other action, or testify or provide information to any
40 person with respect to any of the following:

- 41 a. Chapter 97 of the General Statutes.
- 42 b. Article 2A or Article 16 of this Chapter.
- 43 c. Article 2A of Chapter 74 of the General Statutes.

- 1 d. G.S. 95-28.1.
2 e. G.S. 95-28.1A.
3 (2) Cause any of the activities listed in subdivision (1) of this subsection to
4 be initiated on an employee's behalf.
5 (3) Exercise any right on behalf of the employee or any other employee
6 afforded by Article 2A or Article 16 of this Chapter or by Article 2A of
7 Chapter 74 of the General Statutes."
8 Section 12. Nothing in this act applies to specified accident, specified disease,
9 hospital indemnity, disability, or long-term care health insurance policies.
10 Section 13. This act becomes effective July 1, 1997.