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SENATE  
S. No. 1875

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The Constitution, Article 2, Section 15 provides that:

The State shall protect and promote the right to health of the people and instill health consciousness among them.

The Constitution, Article 13, Section 11 also mandates that:

The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

The health of the people is the wealth of the nation. Health can be maintained by having health insurance available to all. Unfortunately, the accessibility of health insurance is limited by many factors, one of which is the susceptibility of a person to contracting certain kinds of diseases.

Acceptance of a person as an insured by the health insurance provider depends on the fitness of the person, which can be gleaned from his or her family's medical history. With the advent of new technology for obtaining and interpreting genetic information, applicants with genes that are predisposed to developing into a specific type of ailment are rejected and left to fend for themselves when a medical emergency occurs. The health insurer is reluctant to assume the risk of insuring a person vulnerable to a certain disease.

This bill seeks to prohibit discrimination on the basis of genetic information with respect to health insurance.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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\* This bill was originally filed during Fourteenth Congress, First Regular Session.

SENATE  
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Introduced by Senator Miriam Defensor Santiago

1 AN ACT  
2 PROHIBITING DISCRIMINATION BECAUSE OF GENETIC INFORMATION  
3 IN HEALTH INSURANCE COVERAGE

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

4 SECTION 1. *Short Title.* – This Act shall be known as the “Genetic Information  
5 Nondiscrimination in Health Insurance Act.”

6 SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to  
7 protect and promote the right to health of the people and instill health consciousness among  
8 them.

9 SECTION 3. *Purposes.* – It is the purpose of this Act to define the right of individuals  
10 whose genetic information is disclosed; define the circumstances under which an individual’s  
11 genetic information may be disclosed; and protect against discrimination by a health insurer  
12 based upon an individual’s genetic information.

13 SECTION 4. *Definitions.* – For the purposes of this Act, the term:

14 (A) “Genetic information” means information about genes, gene products, or inherited  
15 characteristics that may be derived from an individual or a family member (including  
16 information about a request for or receipt of genetic services).

17 (B) “Genetic services” means health services provided to obtain, assess, or interpret  
18 genetic information for diagnostic and therapeutic purposes, and for genetic education and  
19 counseling.

1 (C) "Predictive genetic information"

2 (1) IN GENERAL - means the absence of symptoms, clinical signs, or  
3 diagnosis of the condition related to -

4 (a) information about an individual's genetic tests;

5 (b) information about genetic tests of family members of the  
6 individual; or

7 (c) information about the occurrence of a disease or disorder in family  
8 members.

9 (2) EXCEPTIONS - The term "predictive genetic information" shall not  
10 include:

11 (a) information about the sex or age of the individual;

12 (b) information derived from physical tests, such as the chemical,  
13 blood, or urine analyses of the individual including cholesterol  
14 tests; and

15 (c) information about physical exams of the individual.

16 (D) "Genetic test" means the analysis of human DNA, RNA, chromosomes, proteins,  
17 and certain metabolites, including analysis of genotypes, mutations, phenotypes, or karyotypes,  
18 for the purpose of diagnosing a genetic characteristic and predicting risk of disease in  
19 asymptomatic or undiagnosed individuals.

20 (E) "DNA" means deoxyribonucleic acid.

21 (F) "Enrollee" means the person applying for health insurance.

22 (G) "Family members" means, with respect to an individual -

23 (1) the spouse of the individual;

24 (2) a dependent child of the individual, including a child who is born to or  
25 placed for adoption with the individual; and

26 (3) all other individuals related by blood to the individual or the spouse or  
27 child described in subparagraph (1) or (2).

28 (H) "Health insurance issuer" means an insurance company or health care service  
29 contractor providing health insurance under insurance laws.

1           SECTION 5. *General Prohibition.* – A health insurance issuer offering health insurance  
2 shall not reject, deny, limit, cancel, refuse to renew, increase the amount of the premium to be  
3 paid, or otherwise discriminate against an individual or a family member of the individual on the  
4 basis of predictive genetic information.

5           SECTION 6. *Prohibition on Predictive Genetic Information as a Condition of Eligibility.*  
6 – A health insurance issuer offering health insurance coverage in the individual market or in  
7 connection with a group health plan shall not use predictive genetic information as a condition of  
8 eligibility of an individual to enroll in individual health insurance coverage (including  
9 information about a request for or receipt of genetic services) or a group health plan.

10          SECTION 7. *Prohibition on Use of Predictive Genetic Information in Setting Premium*  
11 *Rates.* – A health insurance issuer offering health insurance coverage in the individual market or  
12 in connection with a group health plan shall not adjust premium rates for individuals on the basis  
13 of predictive genetic information concerning such an enrollee or a family member of the  
14 employee (including information about a request for or receipt of genetic services).

15          SECTION 8. *Collection of Predictive Genetic Information.* –

16          (A)   Limitation on requesting or requiring predictive genetic information. – Except as  
17 provided in paragraph (B), a health insurance issuer offering health insurance coverage in the  
18 individual market or in connection with a group health plan shall not request or require  
19 predictive genetic information concerning an individual or a family member of the individual  
20 (including information about a request for or receipt of genetic services).

21          (B)   Information needed for diagnosis, treatment, or payment. -

22               (1)   IN GENERAL - Notwithstanding paragraph (A), a health insurance issuer  
23 offering health insurance coverage in the individual market or in  
24 connection with a group health plan that provides health care items and  
25 services to an individual or dependent may request (but may not require)  
26 that such individual or dependent disclose, or authorize the collection or

1 disclosure of, predictive genetic information for purposes of diagnosis or  
2 treatment relating to the provision of health care items and services to such  
3 individual or dependent.

- 4 (2) NOTICE OF CONFIDENTIALITY PRACTICES AND DESCRIPTION  
5 OF SAFEGUARDS - As part of a request under subparagraph (1), the  
6 health insurance issuer offering health insurance coverage in the  
7 individual market or in health plan shall provide to the individual or  
8 dependent a description of the procedures in place to safeguard the  
9 confidentiality, as described in section (9), of such predictive genetic  
10 information.

11 SECTION 9. *Confidentiality with Respect to Predictive Genetic Information.* -

12 (A) NOTICE OF CONFIDENTIALITY PRACTICES -

- 13 (1) PREPARATION OF WRITTEN NOTICE - A health insurance issuer  
14 offering health insurance coverage in the individual market or in  
15 connection with a group health plan shall post or provide, in writing and in  
16 a clear and conspicuous manner, notice of the issuer's confidentiality  
17 practices, that shall include -

- 18 (a) a description of an individual's rights with respect to predictive  
19 genetic information;  
20 (b) the procedures established by the issuer for the exercise of the  
21 individual's rights; and  
22 (c) the right to obtain a copy of the notice of the confidentiality  
23 practices required under this section.

- 24 (2) MODEL NOTICE - The Secretary of Health, in consultation with the  
25 Insurance Commissioner, and after notice and opportunity for public  
26 comment, shall develop and disseminate model notices of confidentiality  
27 practices. Unsettlement notice shall serve as a defense against claims of  
28 receiving inappropriate notice.

1 (B) ESTABLISHMENT OF SAFEGUARDS - A health insurance issuer offering  
2 health insurance coverage in the individual market or in connection with a group health plan  
3 shall establish and maintain appropriate administrative, technical, and physical safeguards to  
4 protect the confidentiality, security, accuracy, and integrity of predictive genetic information  
5 created, received, obtained, maintained, used, transmitted, or disposed of by such issuer.

6 SECTION 10: *Separability Clause.* - If any provision or part thereof is held invalid or  
7 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
8 valid and subsisting.

9 SECTION 11. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
10 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent  
11 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

12 SECTION 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its  
13 publication in at least two (2) newspapers of general circulation.

Approved,