

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

8 FEB 11 2016

SENATE
S. No. 2064

RECEIVED BY: 94

Introduced by Senator Miriam Defensor Santiago

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 the development which shall endeavour to make essential goods, health and social services available to all the people at affordable cost, priority for the needs of the underprivileged sick, elderly, disabled,

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 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

FOURTEENTH CONGRESS OF THE REPUBLIC)
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FEB 11 2008

SENATE
S. No. 2064

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Introduced by Senator Miriam Defensor Santiago

AN ACT
TO PROHIBIT DISCRIMINATION BECAUSE OF GENETIC INFORMATION
IN HEALTH INSURANCE COVERAGE

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Genetic Information
2 Nondiscrimination in Health Insurance Act of 2008.”

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

6 SECTION 3. *Purposes.* – It is the purpose of this Act to –

7 (A) define the right of individuals whose genetic information is disclosed;

8 (B) define the circumstances under which an individual’s genetic
9 information may be disclosed; and

10 (C) protect against discrimination by a health insurer based upon an
11 individual’s genetic information.

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

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

1 (B) “Genetic services” means health services provided to obtain, assess, or
2 interpret genetic information for diagnostic and therapeutic purposes, and for genetic
3 education and counselling.

4 (C) “Predictive genetic information”

5 (1) IN GENERAL – means the absence of symptoms, clinical signs, or
6 diagnosis of the condition related to such information -

7 (a) information about an individual’s genetic tests;

8 (b) information about genetic tests of family members of the
9 individual; or

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

12 (2) EXCEPTIONS – The term “predictive genetic information” shall not
13 include:

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

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

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

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

22 (E) “DNA” means deoxyribonucleic acid.

23 (F) “Enrollee” means the person applying for health insurance.

24 (G) “Family members” means with respect to an individual –

25 (1) the spouse of the individual;

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

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

1 (H) "Health insurance issuer" means an insurance company or health care service
2 contractor providing health insurance to regulation under state insurance laws.

3 SECTION 5. *General Prohibition.* – An insurer offering health insurance genetic
4 information to reject, deny, limit, cancel, refuse to renew, increase the otherwise affect
5 health insurance.

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

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

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

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

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

25 (1) *IN GENERAL* - Notwithstanding paragraph (I), a health insurance
26 issuer offering health insurance coverage in the individual market or in

1 connection with a group health plan that provides health care items and services
2 to an individual or dependent may request (but may not require) that such
3 individual or dependent disclose, or authorize the collection or disclosure of,
4 predictive genetic information for purposes of diagnosis, treatment, or payment
5 relating to the provision of health care items and services to such individual or
6 dependent.

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

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

14 (A) NOTICE OF CONFIDENTIALITY PRACTICES -

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

20 (a) a description of an individual’s rights with respect to predictive
21 genetic information

22 (b) the procedures established by the issuer for the exercise of the
23 individual’s rights; and

24 (c) the right to obtain a copy of the notice o f the confidentiality
25 practices required under this subsection.

26 (2) MODEL NOTICE - The Secretary of Health, in consultation with the
27 Insurance Commission, and after notice and opportunity for public comment,
28 shall develop and disseminate model notices of confidentiality practices.

1 Unsettlement notice shall serve as a defense against claims of receiving
2 inappropriate notice.

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

9 SECTION 10. *Effectivity Date.* - The provisions of this Act shall apply with
10 respect to -

11 (A) group health plans, for plan years beginning after one (1) year after the date of
12 enactment of this Act; and

13 (B) health insurance coverage offered, sold, issued, renewed, in effect, or
14 operating in the individual market after one (1) year after the date of enactment of this
15 Act.

16 SECTION 11. *Separability Clause.* - If any provision or part thereof, is held
17 invalid or unconstitutional, the remainder o f t he l aw o f t he provision not otherwise
18 affected shall remain valid and subsisting.

19 SECTION 12. *Repealing Clause.* - Any law, presidential decree or issuance,
20 executive order, letter of instruction, administrative order, rule or regulation contrary t o,
21 or inconsistent with, the provisions of this Act is hereby repealed, modified or amended
22 accordingly.

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

25 Approved,