A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTIONS 38‑63‑120, 38‑65‑140, 38‑71‑300, AND 38‑72‑120 ALL SO AS TO DEFINE TERMS AND TO PROHIBIT CERTAIN INSURERS FROM CANCELING, LIMITING, OR DENYING COVERAGE, OR ESTABLISHING DIFFERENTIALS IN PREMIUM RATES BASED UPON GENETIC INFORMATION; AND TO AMEND SECTION 38-71-105, RELATING TO DISABILITY INCOME INSURANCE, SO AS TO PROVIDE INSURERS THAT ISSUE DISABILITY INCOME INSURANCE POLICIES in THIS STATE MAY NOT DECLINE OR LIMIT SUCH COVERAGE OR DISCRIMINATE IN THE OFFERING, ISSUANCE, CANCELLATION OF SUCH COVERAGE, AMONG OTHER THINGS, BASED SOLELY ON GENETIC INFORMATION OF THE PROSPECTIVE INSURED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 63, Title 38 of the S.C. Code is amended by adding:

Section 38-63-120. (A) For purposes of this section:

(1) “Genetic information” means information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic at the time of testing. Such testing does not include routine physical examinations or chemical, blood, or urine analysis, unless conducted purposefully to obtain genetic information, or answer questions regarding family history.

(2) “Life insurer” is an insurer providing life insurance, as defined in Section 38‑1‑20(35).

(B) A life insurer shall not require an individual to whom the insurer provides life insurance coverage, or an individual who applies for life insurance coverage, to take a genetic test as a precondition of insurability and shall not require the complete genome sequencing of an individual’s DNA. These rights may not be waived.

(C) A life insurer shall not request, obtain, or use an individual’s genetic information for underwriting purposes without first obtaining the individual's signed, written consent.

(D) Provided that an individual’s signed, written consent is obtained, no life insurer authorized to transact insurance in this State may cancel, limit, or deny coverage based solely on an individual’s genetic information.

(E) This section does not apply to the underwriting or issuance of an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy or any other actions of an insurer directly related to an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy.

(F) Nothing in this section may be construed as preventing a life insurer from accessing an individual’s medical record as part of an application exam. Nothing in this section prohibits a life insurer from considering a medical diagnosis included in an individual’s medical record, even if a diagnosis was made based on the results of genetic testing.

SECTION 2. Article 1, Chapter 65, Title 38 of the S.C. Code is amended by adding:

Section 38-65-140. (A) For purposes of this section:

(1) “Genetic information” means information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic at the time of testing. Such testing does not include routine physical examinations or chemical, blood, or urine analysis, unless conducted purposefully to obtain genetic information, or answer questions regarding family history.

(2) “Life insurer” is an insurer providing life insurance, as defined in Section 38‑1‑20(35).

(B) A life insurer shall not require an individual to whom the insurer provides life insurance coverage, or an individual who applies for life insurance coverage, to take a genetic test as a precondition of insurability and shall not require the complete genome sequencing of an individual’s DNA. These rights may not be waived.

(C) A life insurer shall not request, obtain, or use an individual’s genetic information for underwriting purposes without first obtaining the individual's signed, written consent.

(D) Provided that an individual’s signed, written consent is obtained, no life insurer authorized to transact insurance in this State may cancel, limit, or deny coverage based solely on an individual’s genetic information.

(E) This section does not apply to the underwriting or issuance of an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy or any other actions of an insurer directly related to an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy.

(F) Nothing in this section may be construed as preventing a life insurer from accessing an individual’s medical record as part of an application exam. Nothing in this section prohibits a life insurer from considering a medical diagnosis included in an individual’s medical record, even if a diagnosis was made based on the results of genetic testing.

SECTION 3. Article 1, Chapter 71, Title 38 of the S.C. Code is amended by adding:

Section 38-71-300. (A) For purposes of this section:

(1) “Genetic information” means information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic at the time of testing. Such testing does not include routine physical examinations or chemical, blood, or urine analysis, unless conducted purposefully to obtain genetic information, or answer questions regarding family history.

(2) “Accident and health insurance” has the same meaning as in Section 38-1-20(1), and must be construed to include disability income coverages.

(3) “Health insurer” is an insurer providing accident and health insurance.

(B) A health insurer shall not require an individual to whom the insurer provides health insurance coverage, or an individual who applies for health insurance coverage, to take a genetic test as a precondition of insurability and shall not require the complete genome sequencing of an individual’s DNA. These rights may not be waived.

(C) A health insurer shall not request, obtain, or use an individual’s genetic information for underwriting purposes without first obtaining the individual’s signed, written consent.

(D) Provided that an individual’s signed, written consent is obtained, no accident and health insurer authorized to transact insurance in this State may cancel, limit, or deny coverage based solely on an individual’s genetic information.

(E) This section does not apply to the underwriting or issuance of an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy or any other actions of an insurer directly related to an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy.

SECTION 4. Chapter 72, Title 38 of the S.C. Code is amended by adding:

Section 38-72-120. (A) For purposes of this section:

(1) “Genetic information” means information derived from genetic testing to determine the presence or absence of variations or mutations, including carrier status, in an individual’s genetic material or genes that are scientifically or medically believed to cause a disease, disorder, or syndrome, or are associated with a statistically increased risk of developing a disease, disorder, or syndrome, which is asymptomatic at the time of testing. Such testing does not include routine physical examinations or chemical, blood, or urine analysis, unless conducted purposefully to obtain genetic information, or answer questions regarding family history.

(2) “Long-term care insurer” is an insurer providing long-term care insurance, as defined in Section 38‑72‑40(1).

(B) A long-term care insurer shall not require an individual to whom the insurer provides long-term care insurance coverage, or an individual who applies for long-term care insurance coverage, to take a genetic test as a precondition of insurability and shall not require the complete genome sequencing of an individual’s DNA. These rights may not be waived.

(C) A long-term care insurer shall not request, obtain, or use an individual’s genetic information for underwriting purposes without first obtaining the individual’s signed, written consent.

(D) Provided that an individual’s signed, written consent is obtained, no long-term care insurer authorized to transact insurance in this State may cancel, limit, or deny coverage based solely on an individual’s genetic information.

(E) This section does not apply to the underwriting or issuance of an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy or any other actions of an insurer directly related to an accident‑only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy.

(F) Nothing in this section may be construed as preventing a long-term care insurer from accessing an individual’s medical record as part of an application exam. Nothing in this section prohibits a life insurer from considering a medical diagnosis included in an individual’s medical record, even if a diagnosis was made based on the results of genetic testing.

SECTION 5. Section 38-71-105 of the S.C. Code is amended to read:

Section 38-71-105. (A) Notwithstanding another provision of law, a disability income insurance policy issued in this State, may not:

(1) decline or limit coverage of a person under any disability income insurance policy solely due to the status of such person as a living organ donor;

(2) preclude an insured from donating all or part of an organ as a condition of continuing to receive a disability income insurance policy; or

(3) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a disability income insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

(B) Notwithstanding another provision of law, an insurer that issues disability income insurance policies in this State may not:

(1) decline or limit coverage of a person under any disability income insurance policy based solely on the genetic information of the person; or

(2) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a disability income insurance policy for a person, based solely the genetic information of the person.

(B)(C) The Department of Insurance may take actions to enforce subsection (A)subsections (A) and (B) as authorized under this title.

(C)(D) For purposes of this section:

(1) “Disability income insurance policy” means a contract under which an entity promises to pay an insured a sum of money in the event that an illness or injury resulting in a disability prevents the insured from working.

(2) “Genetic information” has the same meaning as found in Section 38-71-300(A)(1).

(2)(3) “Living organ donor” means an individual who has donated all or part of an organ and is not deceased.

SECTION 6. This act takes effect upon approval by the Governor.

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