

Committee Substitute for House Bill Nos. 37 and 127

An act relating to genetic testing for insurance purposes; creating s. 627.4301, F.S.; prohibiting health insurers from using genetic information; providing definitions; providing exemptions; amending s. 627.6419, F.S.; prohibiting insurers from denying or canceling coverage or limiting benefits solely due to family history, unless the condition is diagnosed through a breast biopsy; amending s. 632.638, F.S.; providing applicability of s. 627.4301, F.S., to fraternal benefit societies; creating s. 636.0201, F.S.; providing applicability of s. 627.4301, F.S., to prepaid limited health service organizations; amending s. 641.30, F.S.; providing applicability of s. 627.4301, F.S., to health maintenance organizations; creating s. 641.438, F.S.; providing applicability of s. 627.4301, F.S., to prepaid health clinics; providing civil penalties; providing requirements upon insurers; providing exemptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.4301, Florida Statutes, is created to read:

627.4301 Genetic information for insurance purposes.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “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 questions regarding family history.

(b) “Health insurer” means an authorized insurer offering health insurance as defined in s. 624.603, a self-insured plan as defined in s. 624.031, a multiple-employer welfare arrangement as defined in s. 624.437, a prepaid limited health service organization as defined in s. 636.003, a health maintenance organization as defined in s. 641.19, a prepaid health clinic as defined in s. 641.402, a fraternal benefit society as defined in s. 632.601, an accountable health partnership as defined in s. 408.701, or any health care arrangement whereby risk is assumed.

(2) USE OF GENETIC INFORMATION.—

(a) In the absence of a diagnosis of a condition related to genetic information, no health insurer authorized to transact insurance in this state may cancel, limit, or deny coverage, or establish differentials in premium rates, based on such information.

(b) Health insurers may not require or solicit genetic information, use genetic test results, or consider a person's decisions or actions relating to genetic testing in any manner for any insurance purpose.

(c) This section does not apply to the underwriting or issuance of a life insurance policy, disability income policy, long-term care policy, accident-only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy or any other actions of an insurer directly related to a life insurance policy, disability income policy, long-term care policy, accident-only policy, hospital indemnity or fixed indemnity policy, dental policy, or vision policy.

Section 2. Section 627.6419, Florida Statutes, is amended to read:

627.6419 Requirements with respect to fibrocystic conditions.—An insurer may not deny the issuance or renewal of, or cancel, a policy of accident insurance or health insurance, nor include any exception or exclusion of benefits in a policy, solely because the insured has been diagnosed as having a fibrocystic condition or a nonmalignant lesion that demonstrates a predisposition, or solely due to the family history of the insured related to breast cancer, or solely due to any combination of these factors, unless the condition is diagnosed through a breast biopsy that demonstrates an increased disposition to developing breast cancer. This section also applies to a policy of group, blanket, or franchise accident or health insurance and to a contract or evidence of coverage issued by a health maintenance organization.

Section 3. Section 632.638, Florida Statutes, is amended to read:

632.638 Applicability of other code provisions.—In addition to ~~other the~~ provisions ~~heretofore~~ contained or referred to in this chapter, the following ~~other~~ chapters and provisions of this code shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, ~~as follows:~~

- (1) Part I of chapter 624;
- (2) Part II of chapter 624;
- (3) Sections 624.404, 624.415, 624.416, 624.418, 624.420, 624.421, 624.4211, 624.422, and 624.423;
- (4) Section 624.501;
- (5) Part I of chapter 626;
- (6) Part III of chapter 626;
- (7) Part IV of chapter 626;
- (8) Sections 626.901 through 626.912;
- (9) Part VIII of chapter 626, subject to the limitations set forth in former s. 632.341;

(10) Section 627.424;

(11) Section 627.428;

(12) Section 627.4301;

~~(13)(12)~~ Section 627.479; and

~~(14)(13)~~ Part I of chapter 631.

Section 4. Section 636.0201, Florida Statutes, is created to read:

636.0201 Genetic information restrictions.—A prepaid limited health service organization must comply with the provisions of s. 627.4301.

Section 5. Subsection (5) is added to section 641.30, Florida Statutes, to read:

641.30 Construction and relationship to other laws.—

(5) Every health maintenance organization must comply with s. 627.4301.

Section 6. Section 641.438, Florida Statutes, is created to read:

641.438 Genetic information restrictions.—A prepaid health clinic must comply with the provisions of s. 627.4301.

Section 7. This act shall take effect January 1, 1998, and shall apply to policies and contracts issued or renewed on or after that date.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.