

By: Capriglione, Oliverson, Smithee

H.B. No. 3742

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a prohibition on the use of genetic information  
3 gathered from direct-to-consumer genetic tests by a long-term care  
4 benefit plan issuer or a life insurance company.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 5, Insurance Code, is amended  
7 by adding Chapter 564 to read as follows:

8 CHAPTER 564. USE OF GENETIC INFORMATION GATHERED FROM  
9 DIRECT-TO-CONSUMER GENETIC TEST

10 Sec. 564.001. APPLICABILITY OF CHAPTER. (a) This chapter  
11 applies only to:

12 (1) an individual long-term care benefit plan that is  
13 delivered or issued for delivery in this state;

14 (2) a group long-term care benefit plan that is:  
15 (A) delivered or issued for delivery in this  
16 state; and

17 (B) issued to an eligible group as described by  
18 Subchapter B, Chapter 1251;

19 (3) an evidence of coverage delivered or issued for  
20 delivery in this state for long-term care; and

21 (4) a life insurance policy issued or delivered in  
22 this state.

23 (b) This chapter applies only to a policy, certificate, or  
24 evidence of coverage that is issued by:

- 1           (1) a capital stock insurance company, including a  
2 life, health and accident, or general casualty insurance company;
- 3           (2) a mutual life insurance company;
- 4           (3) a mutual assessment life insurance company,  
5 including a statewide mutual assessment corporation, local mutual  
6 aid association, and burial association;
- 7           (4) a mutual or mutual assessment association,  
8 including an association subject to Section [887.101](#);
- 9           (5) a mutual insurance company other than a life  
10 insurance company;
- 11           (6) a mutual or natural premium life or casualty  
12 insurance company;
- 13           (7) a fraternal benefit society;
- 14           (8) a Lloyd's plan insurer;
- 15           (9) a reciprocal or interinsurance exchange;
- 16           (10) a nonprofit medical, hospital, or dental service  
17 corporation, including a company subject to Chapter [842](#);
- 18           (11) a stipulated premium company;
- 19           (12) a health maintenance organization under Chapter  
20 [843](#); or
- 21           (13) another insurer required to be licensed by the  
22 department.

23           Sec. 564.002. EXEMPTIONS. This chapter does not apply to:

- 24           (1) a group policy or certificate that is delivered or  
25 issued for delivery in this state under a single employer or labor  
26 union group policy that is delivered or issued for delivery outside  
27 this state; or

1           (2) a benefit plan, including a health benefit plan,  
2 that is not advertised, marketed, or offered as a long-term care  
3 benefit plan or nursing home benefit plan.

4           Sec. 564.003. LONG-TERM CARE BENEFIT PLAN DEFINED. (a) In  
5 this chapter, "long-term care benefit plan" means an insurance  
6 policy or group certificate, or rider to the policy or certificate,  
7 or evidence of coverage issued by a health maintenance organization  
8 subject to Chapter 843, that is advertised or marketed as  
9 providing, or offered or designed to provide, coverage for not less  
10 than 12 consecutive months for each covered individual on an  
11 expense-incurred, indemnity, prepaid, or other basis for one or  
12 more necessary or medically necessary diagnostic, preventive,  
13 therapeutic, rehabilitative, maintenance, or personal care  
14 services provided in a setting other than an acute care unit of a  
15 hospital.

16           (b) The term includes a plan or rider, other than a group or  
17 individual annuity or life insurance policy, that provides for  
18 payment of benefits based on cognitive impairment or the loss of  
19 functional capacity.

20           (c) The term does not include an insurance policy, group  
21 certificate, or evidence of coverage that is offered primarily to  
22 provide:

23           (1) basic Medicare supplement coverage, basic  
24 hospital expense coverage, basic medical-surgical expense  
25 coverage, hospital confinement indemnity coverage, major medical  
26 expense coverage, disability income protection coverage,  
27 accident-only coverage, specified disease or specified accident

1 coverage, or limited benefit health coverage; or

2 (2) basic or single health care services.

3 Sec. 564.004. USE OF INFORMATION GATHERED FROM  
4 DIRECT-TO-CONSUMER GENETIC TESTS PROHIBITED. (a) In this section,  
5 "direct-to-consumer genetic test" means a genetic test that is  
6 marketed directly to consumers using television, print  
7 advertisements, or the Internet and that may be purchased directly  
8 by a consumer.

9 (b) Without written consent from an individual applying for  
10 coverage under a long-term care benefit plan or life insurance  
11 policy, a long-term care benefit plan issuer or life insurance  
12 company may not:

13 (1) require the individual to furnish genetic  
14 information gathered from a direct-to-consumer genetic test; or

15 (2) use genetic information gathered from a  
16 direct-to-consumer genetic test to reject, deny, limit, increase  
17 the premiums for, or otherwise adversely affect eligibility for or  
18 coverage under the plan or policy.

19 (c) Nothing in this section may be construed to prohibit or  
20 limit the ability of an insurer to request and obtain medical  
21 information from an individual applying for insurance.

22 SECTION 2. Chapter 564, Insurance Code, as added by this  
23 Act, applies only to an insurance policy, contract, or evidence of  
24 coverage that is delivered, issued for delivery, or renewed on or  
25 after January 1, 2022. A policy, contract, or evidence of coverage  
26 delivered, issued for delivery, or renewed before January 1, 2022,  
27 is governed by the law as it existed immediately before the

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1 effective date of this Act, and that law is continued in effect for  
2 that purpose.

3 SECTION 3. This Act takes effect September 1, 2021.