

By: Capriglione

H.B. No. 3742

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

Sec. 564.001. APPLICABILITY OF CHAPTER. (a)

Notwithstanding Section 101.053(b)(5), and subject to Subsection (b), this chapter applies only to:

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

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

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

(3) a certificate issued under a group long-term care benefit plan issued to an eligible group as described by Subchapter B, Chapter 1251, if the certificate is delivered or issued for delivery in this state, regardless of the place where the plan is delivered or issued for delivery;

1 (4) an evidence of coverage delivered or issued for
2 delivery in this state for long-term care; and

3 (5) a life insurance policy:

4 (A) issued or delivered in this state; or

5 (B) issued by a life insurance company organized
6 under the laws of this state.

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

9 (1) a capital stock insurance company, including a
10 life, health and accident, or general casualty insurance company;

11 (2) a mutual life insurance company;

12 (3) a mutual assessment life insurance company,
13 including a statewide mutual assessment corporation, local mutual
14 aid association, and burial association;

15 (4) a mutual or mutual assessment association,
16 including an association subject to Section [887.101](#);

17 (5) a mutual insurance company other than a life
18 insurance company;

19 (6) a mutual or natural premium life or casualty
20 insurance company;

21 (7) a fraternal benefit society;

22 (8) a Lloyd's plan insurer;

23 (9) a reciprocal or interinsurance exchange;

24 (10) a nonprofit medical, hospital, or dental service
25 corporation, including a company subject to Chapter [842](#);

26 (11) a stipulated premium company;

27 (12) a health maintenance organization under Chapter

1 843; or

2 (13) another insurer required to be licensed by the
3 department.

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

5 (1) a certificate that is delivered or issued for
6 delivery in this state under a single employer or labor union group
7 policy that is delivered or issued for delivery outside this state;
8 or

9 (2) a benefit plan that is not advertised, marketed,
10 or offered as a long-term care benefit plan or nursing home benefit
11 plan.

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

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

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

4 (1) basic Medicare supplement coverage, basic
5 hospital expense coverage, basic medical-surgical expense
6 coverage, hospital confinement indemnity coverage, major medical
7 expense coverage, disability income protection coverage,
8 accident-only coverage, specified disease or specified accident
9 coverage, or limited benefit health coverage; or

10 (2) basic or single health care services.

11 Sec. 564.004. USE OF INFORMATION GATHERED FROM
12 DIRECT-TO-CONSUMER GENETIC TESTS PROHIBITED. (a) In this section,
13 "direct-to-consumer genetic test" means a genetic test that is
14 marketed directly to consumers using television, print
15 advertisements, or the Internet and that may be purchased directly
16 by a consumer.

17 (b) A long-term care benefit plan issuer or life insurance
18 company may not use genetic information gathered from a
19 direct-to-consumer genetic test to reject, deny, limit, cancel,
20 refuse to renew, increase the premiums for, or otherwise adversely
21 affect eligibility for or coverage under the plan or policy.

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.