By: Capriglione, Oliverson, Smithee

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

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

(b) This chapter applies only to a policy, certificate, or
evidence of coverage that is issued by:
(1) a capital stock insurance company, including a life, health and accident, or general casualty insurance company;
(2) a mutual life insurance company;
(3) a mutual assessment life insurance company, including a statewide mutual assessment corporation, local mutual aid association, and burial association;
(4) a mutual or mutual assessment association, including an association subject to Section 887.101;
(5) a mutual insurance company other than a life insurance company;
(6) a mutual or natural premium life or casualty insurance company;
(7) a fraternal benefit society;
(8) a Lloyd's plan insurer;
(9) a reciprocal or interinsurance exchange;
(10) a nonprofit medical, hospital, or dental service corporation, including a company subject to Chapter 842;
(11) a stipulated premium company;
(12) a health maintenance organization under Chapter 843; or
(13) another insurer required to be licensed by the department.
(2) a benefit plan, including a health benefit plan, that is not advertised, marketed, or offered as a long-term care benefit plan or nursing home benefit plan.

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

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

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

(1) basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident
(2) basic or single health care services.

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

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

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

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

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

SECTION 2. Chapter 564, Insurance Code, as added by this Act, applies only to an insurance policy, contract, or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2022. A policy, contract, or evidence of coverage delivered, issued for delivery, or renewed before January 1, 2022, 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.