

By: Capriglione, Oliverson, Smithee

H.B. No. 3742

Substitute the following for H.B. No. 3742:

By: Oliverson

C.S.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

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.