



AMERICAN ACADEMY *of* ACTUARIES

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**National Conference of Insurance Legislators  
Hearing on  
Proposed Genetic Discrimination Model Act**

**Statement of David Christianson, FSA, MAAA  
Member, Life Products Committee  
American Academy of Actuaries**

**July 13, 2002**

The American Academy of Actuaries is the public policy organization for actuaries practicing in all specialties within the United States. A major purpose of the Academy is to act as the public information organization for the profession. The Academy is non-partisan and assists the public policy process through the presentation of clear and objective actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal elected officials, comments on proposed federal regulations, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualification and practice and the Code of Professional Conduct for all actuaries practicing in the United States.

## **Introduction**

On behalf of the American Academy of Actuaries' (Academy) Life Products Committee, I appreciate the opportunity to provide comments on the proposed *Genetic Discrimination Model Act*. I hope that these comments will be helpful as the National Conference of Insurance Legislators (NCOIL) Life Committee considers the proposal.

The Academy is the non-partisan public policy organization for the actuarial profession and assists policymakers through presentation of clear actuarial analysis. For more than thirty years, membership in the Academy has been a hallmark of professional quality for U.S. actuaries. Academy members are bound by rigorous professional standards of conduct, practice, and qualification.

The actuarial profession is uniquely qualified to examine issues relating to insurance. Academy members who practice in the insurance field typically have a broad understanding of insurance risk, and they are well equipped to evaluate genetic testing topics in both the life and health areas.

Given this expertise, the actuarial perspective is particularly valuable in examining the fundamental aspects of insurance and in describing policy considerations associated with proposals to address the use of genetic information in this context.

## **Comments**

The proposed legislation is an attempt to balance the fears and wants of individuals who have genetic conditions (or who may learn they have genetic conditions if they are tested) against the economic needs of insurers to correctly assess risk and fairly assign all applicants to appropriate premium classes. In general, the proposal recognizes that large policies issued on individuals with catastrophic genetic conditions can have a significant effect on the economic stability of the insurance system. For individuals, it assures them of the ability to purchase up to \$100,000 of life insurance or \$60,000 of disability insurance, provided they do not have some non-genetic risk factors that would limit coverage.

Recognizing the intent of the proposal, I believe this draft legislation is flawed in several ways:

1. It fails to take into account the basic economic premise upon which individual insurance is based – namely, that both parties, the applicant and insurer, will know the same information and the best possible rates will result. Allowing policies to be sold without regard for information known by the applicant (no matter the policy size or the severity of the condition) will have a negative impact on the insurers and hence, the other insureds.

2. Protections are given to those who arguably do not need them. If the condition is not “catastrophic,” then arguably the person is insurable, but perhaps at a higher-than-standard premium. Meanwhile, those with more severe conditions are limited to \$100,000 of life coverage or \$60,000 disability coverage.
3. The proposal does not employ appropriate risk classification methodologies. Risk classification involves setting appropriate rates based on actuarially justified evaluations of risk. Whether the risk is genetic or from other causes is not material. By setting artificial limits on some types of risk, the system will become difficult to administer, uneven in its application, and hence, unfair to individuals who must subsidize those whose added risk is ignored.
4. The proposal also ignores the very real possibility that a disproportionate number of the subsidized policies might be written by a small number of companies. Any system of subsidy should consider what class of persons or institutions is asked to bear the cost of the subsidy, and assure that the burden is fairly distributed in that class. If a company were asked to bear a burden that is large enough to affect its pricing of non-subsidized policies, it could be put into a downward spiral in which the policyowners who are asked to pay the subsidy leave for other companies with a smaller burden.

There appear to be two concerns this proposed legislation is trying to address. The first is the *fear* of loss of access to insurance. The second is the *actual* loss of access, either through increased cost or denial of application.

This proposed legislation addresses the first concern through a rigorous process of identification of catastrophic illnesses and approval for denying coverage. In effect, irrational, unfounded overassessment of risk will not be allowed. This is already covered by the requirement that all risk classifications be actuarially justified. So, perhaps vigorous communication should be undertaken to inform the public and the medical community of that fact. Secondly, the economics of testing for conditions rarely found (and having small impact if found) mean that insurers are unlikely to begin to require widespread genetic tests to be performed.

Regarding the second concern, the solution, as mentioned, is subsidization. This proposal will merely shift costs from those with genetic risks to those without genetic risks. A more deliberate assessment of this issue and establishment of a program of subsidization is appropriate.

## **Additional Resources**

The American Academy of Actuaries has published numerous documents on issues related to the use genetic information. The following materials can be found on the Academy's web site ([www.actuary.org/pubs.htm](http://www.actuary.org/pubs.htm)). For more information, please feel free to contact Steve English, the Academy's life policy analyst ([english@actuary.org](mailto:english@actuary.org)).

### **Issue Briefs:**

*[Risk Classification in Voluntary Life Insurance](#)* (Spring 1997)

*[Genetic Information and Voluntary Life Insurance](#)* (Spring 1998)

*[Risk Classification in Voluntary Individual Disability Income and Long-Term Care Insurance](#)* (Winter 2001)

*[The Use of Genetic Information in Disability Income and Long-Term Care Insurance](#)* (Spring 2002)

### **Monographs:**

*[Genetic Information and Medical Expense Insurance](#)* (Summer 2000)