

AN ACT

RELATING TO GENETIC INFORMATION; PROHIBITING THE USE OF
GENETIC INFORMATION IN NONMEDICAL CONTEXTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-21-2 NMSA 1978 (being Laws 1998,
Chapter 77, Section 2) is amended to read:

"24-21-2. DEFINITIONS.--As used in the Genetic
Information Privacy Act:

A. "DNA" means deoxyribonucleic acid, including
mitochondrial DNA, complementary DNA and DNA derived from
ribonucleic acid;

B. "gene products" means gene fragments,
ribonucleic acids or proteins derived from DNA that would be a
reflection of or indicate DNA sequence information;

C. "genetic analysis" means a test of a person's
DNA, gene products or chromosomes that indicates a propensity
for or susceptibility to illness, disease, impairment or other
disorders, whether physical or mental; that demonstrates
genetic or chromosomal damage due to environmental factors; or
that indicates carrier status for disease or disorder;
excluded, however, are routine physical measurements,
chemical, blood and urine analysis, tests for drugs, tests for
the presence of HIV virus and any other tests or analyses
commonly accepted in clinical practice at the time ordered;

D. "genetic information" means information about the genetic makeup of a person or members of a person's family, including information resulting from genetic testing, genetic analysis, DNA composition, participation in genetic research or use of genetic services;

E. "genetic propensity" means the presence in a person or members of a person's family of real or perceived variations in DNA or other genetic material from that of the normal genome that do not represent the outward physical or medical signs of a genetic disease at the time of consideration;

F. "genetic testing" means a test of an individual's DNA, ribonucleic acid, chromosomes or proteins, including carrier status, that are linked with physical or mental disorders, impairments or genetic characteristics or that indicate that an individual may be predisposed to an illness, disease, impairment or other disorder; and

G. "insurer" means an insurance company, insurance service or insurance organization that is licensed to engage in the business of insurance in the state and that is subject to state law that regulates insurance within the meaning of Paragraph (2) of Subsection (b) of Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended. "Insurer" does not include an insurance company that is licensed under the Prepaid Dental Plan Law or a company that

is solely engaged in the sale of dental insurance and is not licensed under the Prepaid Dental Plan Law, but under another provision of the New Mexico Insurance Code."

Section 2. Section 24-21-4 NMSA 1978 (being Laws 1998, Chapter 77, Section 4) is amended to read:

"24-21-4. GENETIC DISCRIMINATION PROHIBITED.--

A. Discrimination by an insurer against a person or member of the person's family on the basis of genetic analysis, genetic information or genetic propensity is prohibited.

B. The provisions of this section do not require a health insurer to provide particular benefits other than those provided under the terms of the plan or coverage. A health insurer shall not consider a genetic propensity, susceptibility or carrier status as a pre-existing condition for the purpose of limiting or excluding benefits, establishing rates or providing coverage.

C. The provisions of this section do not prohibit use of genetic analysis, genetic propensity or genetic information by an insurer in the ordinary conduct of business in connection with life, disability income or long-term care insurance if use of genetic analysis, genetic propensity or genetic information in underwriting is based on sound actuarial principles or related to actual or reasonably anticipated experience.

D. It is unlawful for a person to use genetic information in employment, recruiting, housing or lending decisions or in extending public accommodations and services."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2005.=====