



CLIFFORD OTTE

WISCONSIN STATE REPRESENTATIVE
27TH ASSEMBLY DISTRICT

MEMO

October 16, 1997

TO: Members,
Assembly Committee on Consumer Affairs

FROM: Representative Clifford Otte, Chair

RE: October 23 Executive Session

Please find attached amendments for the executive session on October 23, 1997. I anticipate there may be some additional materials, but I wanted to get these to you as soon as possible in order to give you more time to review them. If you have any questions about the amendments, please feel free to contact our committee clerk, Dan Young.

The attached amendments are:

LRBa0808/1, AA to Assembly 157

LRBs0211/1, ASA to Assembly Bill 367

LRBa0744/1, AA to LRBs0211/1, ASA to AB 367

LRBs0173/9, ASA to Assembly Bill 169

Our last hearing included LRBs0173/4, an earlier ASA to AB 169. You received a summary of that sub, which was prepared by the DATCP. I have asked them to provide an updated summary. Meanwhile, I am attaching a brief summary of changes to the bill. These are an effort to address concerns raised at, or since, our last hearing.

I would appreciate it if you would contact Dan, at my office, if you have any concerns about LRBs0173/9, ASA to Assembly Bill 169. Thank you.

9-19-97

Pamela:

Please draft an amendment to AB 157 to amend s. 631.89(2) to include the State of Wisconsin with other units of government that self insure.

Thank you.

DAN YOUNG
for Rep. Otte
6-8530

P.S. The amendment is for use next month at an anticipated executive session by the Committee on Consumer Affairs.

September 12, 1997

TO: Speaker Ben Brancel
Attention: Kristan Collins

FROM: Representative Clifford Otte

RE: Genetic Testing/ AB 157

I wanted to bring to your attention an article in today's *Milwaukee Journal Sentinel* relating to the need for protection from the misuse of genetic information and the bi-partisan efforts to address this issue. As you know, Assembly Bill 157 is an effort to address this issue on a state level.

I would hope that Wisconsin, as it has been on many issues, could be a leader on this issue and not wait for federal action to possibly occur. I look forward to the opportunity of acting upon this bill in the Committee on Consumer Affairs. I do plan to have an executive session of the Committee on the morning of September 25. Since the budget will likely be resolved by then and this bill will still not be available for scheduling until November, would that date be too soon to act on AB 157?

9-18-97

Sue Armacost
Wis. Right-to-Life

> doing letter to Committee urging action.

> I'm reviewing the bill and the law
they noted that the law does not
include, the State, only local
governments that self-insure, even
though the State does some self-insure.

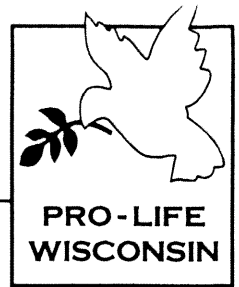
Sue talked to Marlin - who wrote the
law - and he said he did not include
the State because he did not think
they self-insured. Would we be willing
to amend the bill to add the State ???

(Amend s. 631.89(2))

Refers questions to Mary Klever

PRO-LIFE WISCONSIN

P.O. BOX 8104 · JANESVILLE, WISCONSIN 53547-8104
(608) 757-9990 · FAX (608) 757-9993



August 19, 1997

Mary C. Matuska
State Director

COPY

Rep. Ben Brancel
P.O. Box 8952
Madison, WI 53708

Dear Rep. Brancel,

We have enclosed a copy of the front-page article on genetic testing which appeared in a recent issue of *USA Today*. In it, the link between genetic testing and abortion is clearly described and explained.

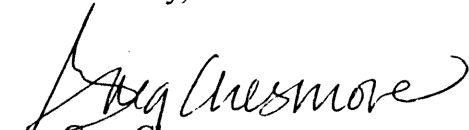
We call this article to your attention to illustrate Pro-Life Wisconsin's support for Assembly Bill 157 which is currently in the Assembly Consumer Affairs Committee. While this bill has had a hearing, no executive session on this important bill has been held or scheduled.

This bi-partisan effort to protect parents from feeling pressured to end the lives of their preborn children because of the result of a genetic test is an important effort to close a loophole which currently exists in Wisconsin law prohibiting insurers from requiring or requesting the results of genetic testing.

As the lead sentence in the article clearly states, "Genetic testing is changing who gets born in America." Pro-Life Wisconsin believes AB 157 provides a necessary safeguard for disabled children and their parents.

We urge you to allow AB 157 to be voted on in the Assembly Consumer Affairs Committee. Thank you for your time and consideration.

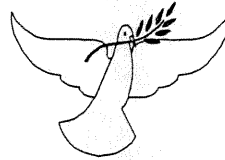
Sincerely,


Greg Chesmore
Director of Communications


Michelle Grothe
Director of Public Affairs

enclosures: *USA Today*, August 15-17

Pro-Life Wisconsin



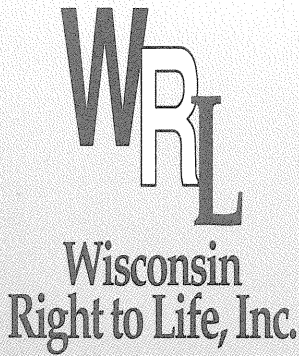
*For Your
Information*

Dear Rep. Off,
We wanted you to
know that this letter
was sent to Rep. Branel.

Thank you,

Michelle Grothe

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Janesville, WI 53547
(608) 757-9990
fax (608) 757-9993
e-mail: prolifewis@aol.com
website: www.execpc.com/~gkriegl/plwindex



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Washington, DC 20004-2293

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September 18, 1997

Representative Clifford Otte, Chair
Assembly Consumer Affairs Committee
Wisconsin State Assembly
State Capitol
Madison, WI 53702

Dear Cliff,

I am writing to you on behalf of Wisconsin Right to Life in support of Assembly Bill 157, legislation that would prohibit insurers from requesting genetic test information from health care providers.

Wisconsin Right to Life has always supported legislative initiatives that would protect individuals, whether born or unborn, from genetic information being used to discriminate against them in any area of their lives. In 1991, sec. 631.89 of Wisconsin law began the process of providing such protection by placing restrictions on insurers and self-insured health care services provided by certain governmental entities. Assembly Bill 157 provides further protections in this area.

I want to call your attention to an addition to section 631.89 that you might want to incorporate into AB 157. That provision, which AB 157 amends, covers counties, cities, villages and school boards that provide health care services for individuals on a self-insured basis. We have been told that the state provides a combination of HMO services as well as health care on a self-insured basis. This conclusion is based on sec. 40.52 (1) in our state statutes. If this analysis is correct, we would urge you to use AB 157 as a vehicle to further amend sec. 631.89 to include the state. In that way, state employees who are covered by self-insured health care would also be protected.

Thank you for bringing this issue before your committee and encouraging public discussion on this important issue.

Sincerely,

Susan Armacost
Legislative Director

cc: Members of the Consumer Affairs Committee
Rep. Sheldon Wasserman
Rep. Marlin Schneider

Dedicated successfully since 1968 to advocating for and protecting precious human life.

Please remember the Wisconsin Right to Life Education Fund 501(c)(3) charity and its lifesaving programs in your estate plan. By doing so, you may be able to achieve significant income, gift or estate tax benefits. Please call our development department today for confidential help in successfully implementing the gift plan most suitable for you.



State Medical Society of Wisconsin

Advancing the Science and Art of Medicine

TO: State Representative Cliff Otte, Chair
Members, Assembly Committee on Consumer Affairs

FROM: M. Colleen Wilson, Legislative Counsel
Government Affairs

RE: Support Assembly Bill 157

DATE: October 20, 1997

The State Medical Society of Wisconsin respectfully requests your support for Assembly Bill 157 which would prohibit insurers from requiring or requesting physicians and other health care providers to reveal whether an insured or his/her family has had a genetic test, and if so, the results of the genetic test.

Physicians want to treat their patients to the best of their ability and are often prevented from doing so because their patients fear that insurance companies will learn about potentially life-threatening genetic conditions and drop their coverage. AB 157 is critical to preventing these situations, as it makes it illegal for insurance companies to get information from providers that patients do not want made available. Patients deserve to have their medical information kept private if they so choose. Enable them to protect their privacy by supporting AB 157.

SANDRA L. OSBORN, MD, *President*
JOHN D. RIESCH, MD, *President-Elect*
JOHN E. PATCHETT, JD, *Executive Vice President*
JACK M. LOCKHART, MD, *Treasurer*



State Medical Society of Wisconsin

Advancing the Science and Art of Medicine

September 29, 1997

Assembly Speaker Ben Brancel
211 West State Capitol
P.O. Box 8952
Madison, WI 53707-8952

Dear Speaker Brancel:

The State Medical Society is concerned that Assembly Bill 157, which would prohibit insurers from requiring or requesting physicians and other health care providers to reveal whether an insured or his/her family member has had a genetic test, and if so, the results of the genetic test, has not yet had an executive session scheduled. The bill, supported by Republican and Democrat legislators alike, had a public hearing in May.

Physicians want to treat their patients to the best of their ability and are often prevented from doing so because their patients fear that insurance companies will learn about potentially life-threatening genetic conditions and drop their coverage. AB 157 is critical to preventing these situations, as it makes it illegal for insurance companies to try to get information from providers that patients do not want made available. Your efforts in seeing that an executive session is scheduled for the bill so that it can move forward would be greatly appreciated.

Sincerely,

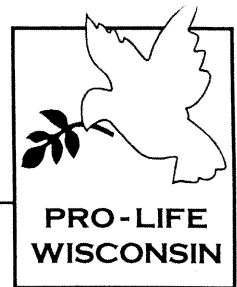
Michael G. Kirby, CAE
Vice President
Public Affairs

cc: State Representative Cliff Otte

SANDRA L. OSBORN, MD, *President*
JOHN D. RIESCH, MD, *President-Elect*
JOHN E. PATCHETT, JD, *Executive Vice President*
JACK M. LOCKHART, MD, *Treasurer*

PRO-LIFE WISCONSIN

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Mary C. Matuska
State Director

May 8, 1997

Testimony of Greg Chesmore, director of communications
In support of Assembly Bill 157

Thank you, Chairman Otte and members of the Assembly Consumer Affairs Committee for allowing me the opportunity to testify today in support of Assembly Bill 157. My name is Greg Chesmore, director of communications of Pro-Life Wisconsin---a state-wide educational and legislative organization representing more than 9,000 families.

Pro-Life Wisconsin commends Rep. Wasserman for introducing this legislation. While our concerns regarding genetic testing and the confidentiality of test results go beyond the "right to privacy", we believe that AB 157 greatly reduces the risk that this delicate information will be used against individuals and families by the insurance industry.

Pro-Life Wisconsin is very troubled by the rapid growth in the field of genetic testing. This is not to say that some forms of genetic testing---when used properly---cannot be beneficial. However, Pro-Life Wisconsin firmly believes that much of the push for genetic testing---specifically the testing of preborn children---is not driven by a concern for eliminating disease, but a concern for eliminating people suffering from disease.

Just last month, a federal panel convened by the National Institutes of Health recommended that all couples expecting babies should be offered tests for gene mutations that could lead to cystic fibrosis. If this panel's recommendations are widely adopted, sources say this screening would be the broadest use yet of tests for specific inherited gene flaws.

While researchers are quick to claim their intent is not to increase the number of abortions of children with CF, statistics show that many parents---when confronted with the

possibility that their preborn children may be born with an illness or disability---choose to end the lives of their children before birth. Sadly, this is reality.

Although federal experts may recommend "non-directive" genetic counseling, our own experience in this matter has revealed that pressure and discrimination does exist in these situations. Pro-Life Wisconsin has received information from some of our own members who have had undue pressure exerted on them to choose abortion, rather than allow a child to be born who may be ill or disabled.

In the real world, these pressures do exist, and sometimes that pressure is very strong. Assembly Bill 157 would protect these vulnerable families---and their defenseless children--from discrimination. Although we understand current state law does forbid an insurer from requiring or requesting that a individual obtain a genetic test or requiring or requesting the results of such testing, Pro-Life Wisconsin believes it is necessary to expand this prohibition of inquiry to health care providers as well. We realize this is a proactive piece of legislation, and at the rate the genetic testing field is growing, we believe it is crucial that Wisconsin's laws be air-tight in this matter.

Pro-Life Wisconsin supports the right of all children to be born---whether they are perfectly healthy or not. AB 157, in our opinion, is a bill which would protect families from having to endure yet one more possible pressure to end the life of their child who may be ill or disabled.

Thank you for your time and consideration.



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: November 3, 1997
TO: REPRESENTATIVE CLIFFORD OTTE; AND INTERESTED LEGISLATORS
FROM: Russ Whitesel, Senior Staff Attorney
SUBJECT: 1997 Assembly Bill 157, Relating to Prohibiting Insurers From Requesting Genetic Test Information From Health Care Providers

This memorandum describes the provisions of 1997 Assembly Bill 157 and also Assembly Amendment 1 to 1997 Assembly Bill 157, relating to prohibiting insurers from requesting genetic test information from health care providers. A brief legislative history of the legislation is also provided.

1. Legislative History

Assembly Bill 157 was introduced on March 6, 1997 by Representative Wasserman and others; cosponsored by Senator Grobschmidt and others, and referred to the Assembly Committee on Consumer Affairs. A public hearing was held on the Bill on May 8, 1997. At an executive session of the Committee held on October 23, 1997, the Committee voted to introduce and adopt Assembly Amendment 1 (LRBa0808/1) to the Bill on a vote of Ayes 6; Noes 0. The Committee voted to recommend passage of the Bill, as amended, on a vote of Ayes, 6; Noes, 0.

2. Provisions of the Bill

Current statutes provide that an insurer may not require or request an individual or member of the individual's family to obtain a genetic test, or require or request an individual to reveal whether he or she or a family member has obtained a genetic test or what the results of such a test, if obtained, were. Further, an insurer may not condition insurance coverage on, or consider that a determination of rates or any other aspects of insurance coverage, whether an individual or a member of the individual's family has obtained a genetic test or what the test results were. These specific prohibitions also apply to a county, city, village or school board that provides health care benefits for its employees on a self-insured basis, but do not apply to an insurer writing life or income continuation insurance. A genetic test is defined in the statutes as

a test using deoxyribonucleic acid (DNA) to determine the presence of or predisposition for a genetic disease or disorder.

Assembly Bill 157 expands the prohibition against insurers from inquiring about genetic tests to include health care providers. Under the Bill, an insurer, including a county, city, village or school board that provides health care benefits on a self-insured basis, may not request or require a health care provider who is providing or has provided health care services to an individual to reveal whether the individual or a family member of an individual has obtained a genetic test or what the results of such a test, if obtained, were. The Bill uses the same comprehensive definition for "health care provider" that is used in the provisions related to confidentiality of patient health care records.

Assembly Amendment 1 to Assembly Bill 157 expressly extends the provisions of the Bill to the State of Wisconsin with respect to self-insured health plans.

If you have any questions regarding this legislation, please feel free to contact me directly at the Legislative Council Staff offices.

RW:kjf:lah;kjf

MYTHS & FACTS

A Genetic Testing Background Report

Genetic research holds the potential to find new ways of diagnosing, preventing and treating disease. But there is also fear that genetic science may give rise to undesirable social problems. Among the concerns that have been raised are questions as to how insurance companies might someday use the results of genetic tests in making decisions about insurance coverage.

The life insurance industry is acutely aware of the importance of these questions.

This report will hopefully answer many questions surrounding this new technology and dispel some commonly held misconceptions.

EXECUTIVE SUMMARY

- Wisconsin law defines a genetic test as a “test using deoxyribonucleic acid extracted from an individual’s cells in order to determine the presence of a genetic disease or disorder or the individual’s predisposition for a particular genetic disease or disorder.”
- Wisconsin’s current genetic testing law prohibits health (medical expense) insurers from requiring genetic testing as a condition of the provision of insurance. The prohibitions, however, do not apply to life or disability income insurance because, when this law was written, the State Legislature wisely recognized the fundamental differences between medical expense insurance and life insurance.
- There are fundamental differences between life and medical expense insurance. Life insurers must have access to genetic testing information in order to guarantee fair pricing of insurance products and to protect their financial security.
- Unlike medical expense insurance, life insurance is a life-long contract between an insurance provider and a policyowner. Life insurance cannot be cancelled and generally rates cannot be increased. It’s critical, therefore, that life insurers and applicants for life insurance have access to the same health information in order to fairly and accurately assess and classify risk.
- Without risk classification - the process of providing equal treatment for equal risks - there would be no economically viable way to provide private life insurance. Without risk assessment, prices for life insurance would escalate and eventually the private life insurance market would fall apart.
- Life insurers need a level playing field of knowledge and the right to obtain all information relevant to risk. Genetic testing was not something sought by the life insurance industry, but its existence requires it to be dealt with on a day-to-day basis.

I. RISK CLASSIFICATION AND ITS ROLE IN THE INSURANCE PROCESS

Genetic Testing Myth:

Insurers are trying to use risk classification to prevent individuals from obtaining insurance.

Fact:

This often heard myth is ironic in that insurers are in the business of selling insurance, not turning away prospective clients. Most insurers will take every step possible, including the utilization of reinsurers, to attempt to provide an applicant with an affordable policy.

While there are some occasions when a person is deemed uninsurable, in reality, less than 1.5 percent of individual life insurance applications are declined for medical reasons under current underwriting practices.

What is risk classification?

Risk classification is the cornerstone of the current system of private, unsubsidized insurance. Through risk classification, insurance companies strive to provide equal treatment for equal risks.

Life insurance companies group policyholders according to characteristics that indicate their risk, such as age, health and gender. Everyone who presents a similar level of risk pays a similar price. For example:

Age -- Young people are charged less than older people for their life insurance. This is because they are likely to live longer than those who are older.

Gender -- Women, as a group, live longer than men. Women thus represent a lower risk to life insurers than similarly aged men, and so they pay lower premiums.

Health -- Life insurance companies use information about one's health to estimate more closely one's chances of dying prematurely. Most applicants represent a level of risk which is simply a factor of their age and gender. However, for applicants who represent an additional risk, such as hypertension or previous history of disease, life insurance is usually available if the individual is willing to pay a higher rate consistent with the extra degree of risk.

It is obvious that an overweight smoker with two prior heart attacks is a higher risk than a non-smoking marathon runner. The marathon runner does not want to subsidize the death benefits of the smoker. Risk classification ensures that each individual pays according to the risk they pose, and no group or individual unfairly subsidizes anyone else.

Why do insurers use risk classification?

Life insurers appraise risks in order to avoid undercharging people (and being unable to pay future claims) or overcharging them (making life insurance unaffordable for many).

What would happen if insurers could not utilize risk classification?

In the long run, without risk classification the existing private insurance market could not exist and some form of socialized risk or public protection program would have to be devised to satisfy the public's need for protection against risk of loss. The nature of the program and the degree of socialization would depend upon the breadth of the limitation or prohibition on underwriting.

In the more immediate future, restrictions on risk classification would lead to insurers either under or overcharging policyholders -- neither of which is desirable from a business or public policy point of view.

II. THE EVOLVING SCIENCE OF GENETIC INFORMATION

Genetic Testing Myth:

Scientists will soon be able to analyze your genetic makeup and tell you how long you will live and what you will die from.

Fact:

Genetic tests often only indicate whether an individual has a "predisposition" to a disease -- a very significant difference from being "presymptomatic," or actually having the disease before symptoms appear.

Many inherited diseases are caused by a complex interaction of multiple genes and environmental factors. Coronary artery disease is a good example. If a person inherits genes that predispose to high cholesterol and hypertension, they are "predisposed" to prematurely developing serious coronary disease. They may or may not develop such a disease.

Likewise persons who have perfectly normal cholesterol and blood pressure (and presumably normal genes for these factors) are predisposed to good health, but can, nonetheless, develop coronary disease.

How is genetic science impacting the world of medicine?

A few years ago it became possible to directly analyze an individual's DNA (the molecule that contains all of our genetic information) and to identify specific genes in that DNA. New DNA-based technologies coupled with advanced computers, are greatly expanding our ability to analyze DNA. To date we have discovered the location and structure of about 1,100 human genes that are responsible for disease.

What are genetic disorders?

There are several types of gene disorders. There are groups of disorders that are inherited from our parents (inherited disorders) and disorders that develop over our lifetime that result from acquired alterations of our genes (acquired disorders). In the group of inherited disorders, a disease may be caused by only one gene of a pair (Huntington's disease), require abnormality in both genes of a pair (cystic fibrosis), or require the presence of one or more abnormal genes plus certain environmental factors (coronary artery disease).

Acquired gene alterations result from the effects of aging and/or the environment on a specific tissue so that only the genes in that tissue are affected. Acquired gene alterations are of particular interest to insurance underwriters because this group of disorders includes many common diseases, such as various forms of cancer, which are associated with significant mortality or morbidity risks.

What is a "genetic test"?

There are no generally accepted definitions of the term "genetic test" or "genetic information." Not so long ago, it seemed fairly easy to distinguish between "genetic" diseases and "nongenetic" diseases. However, as we learn more and more about the genetic mechanisms of disease, we are finding it increasingly difficult to make such distinctions.

Do life insurers advocate the use of genetic tests?

No. Life insurers today do not require applicants to undergo tests which examine DNA. Currently, insurers simply want to be guaranteed that if someone undergoes a genetic test, the insurer can review the results of such a test before issuing a life insurance contract. Should the predictive value of genetic tests improve and their use become commonplace among medical clinicians, however, insurers in the future may wish to use genetic tests as part of the underwriting process.

If someone obtained a genetic test once they had a life insurance policy, could the policy be revoked or could rates be raised?

No. Most life insurance policies are life long contracts which are non-cancellable. Once rates are established, they cannot be changed during the life of the contract.

III. WISCONSIN'S HISTORY ON GENETIC TESTING

Genetic Testing Myth:

Life insurance can be difficult to obtain. The state needs to amend the genetic testing law to ensure that Wisconsin citizens will have access to life insurance.

Fact:

The availability of life insurance is generally not a problem in the state of Wisconsin. There are several hundred private companies offering life insurance in the state, and these companies regularly sell insurance to individuals with high blood pressure, heart disease, history of heart attacks, melanoma, breast cancer and countless other ailments, if risk factors indicate an insurable longevity. For those individuals who have health problems that prevent them from being underwritten by standard insurers, there are insurers who specialize in providing insurance to high risk individuals.

It is important to keep in mind that under current practices, of those individuals who seek private, individually underwritten life insurance, less than 1.5 percent are denied coverage for medical reasons.

In addition, a significant portion of the population also receives life insurance protection in the form of group insurance, most often as an employment benefit, but group coverage is also available through trade associations and other organizations.

Doesn't Wisconsin already have a genetic testing law?

Yes. Wis. Stats. 631.89 prohibits health insurers from requiring or conditioning the provision of insurance coverage or health care benefits on whether an individual, or a member of the individual's family, has obtained a genetic test or what the results of such a test were.

What definition of genetic test does Wisconsin use?

Wisconsin defines a genetic test as "a test using deoxyribonucleic acid extracted from an individual's cells in order to determine the presence of a genetic disease or disorder or the individual's predisposition for a particular genetic disease or disorder."

Why aren't life and disability income insurance included in the genetic testing law?

When the State Legislature originally considered genetic testing and insurance, it wisely recognized the fundamental differences between life and disability income insurance and medical expense insurance.

Life and disability insurance coverages are typically long-term and non-cancellable, with guaranteed premiums. Since these contracts are often life-long agreements, careful, in-depth underwriting of each potential policyholder is critical. Medical reimbursement insurance, on the other hand, typically involves coverages that are short-term and premiums that are experience rated.

Another fundamental difference is that life and disability income insurance are used to meet a variety of wealth and estate building goals, whereas health insurance can only be used to cover the cost of medical care. Health insurance is used to indemnify a person for the costs of health care. A third party, typically the doctor or hospital, is the beneficiary and there is little or no opportunity for personal financial gain. Life and disability income insurance, on the other hand, provides the opportunity for significant monetary gains through its manipulation. Accordingly, there is a greater risk of fraud. Careful and thorough underwriting is an insurer's main defense against such fraud.

Finally, life and disability income insurance tends to be a discretionary purchase. People buy life insurance to cover a financial loss in the event of their untimely death. Proceeds from a life insurance policy may send children to college, protect the standard of living for a surviving spouse, or pay estate taxes. Many people don't buy it at all. Most people recognize, on the other hand, that economics has made health insurance a necessity, and the problem of uninsurables is a matter of great concern at both the state and federal level.

The state should not prohibit an exchange of relevant information between life insurers and their applicants, nor should it compel companies to provide life or disability insurance to everyone.

IV. THE IMPACT OF GENETIC TESTING LEGISLATION ON WISCONSIN LIFE INSURANCE CONSUMERS AND THE INSURANCE INDUSTRY

Genetic Testing Myth:

Restricting insurers' access to genetic test results is a privacy issue. Insurers should not have access to these intimate details about someone's health.

Fact:

This myth demonstrates a misunderstanding some have regarding the basic relationship between a life insurance provider and a potential policyowner. A life insurance contract is a voluntary agreement between two private parties.

Like any two groups entering into a contract, both have certain rights to information which could affect the contract. Accordingly, insurers must disclose certain information about the company's financial condition, rates and performance. A change in the genetic testing law would make it legal for an insurance applicant to withhold relevant information.

Some proposed changes to the genetic testing law would be equivalent to passing a law which would prevent a home buyer from asking the seller about the condition of the home. In order to come to a price that is fair to both parties, there needs to be a level playing field of knowledge.

How would legislation restricting an insurers' access to genetic tests affect the life insurance consumer and the life insurance industry?

The process of risk classification serves applicants, current policyholders and insurers by perpetuating financial soundness and fairness. Through the process of risk classification and underwriting, insurance companies place applicants for coverage into groups or classes. Each class is comprised of individuals who pose the same or comparable levels of risk. All the members of a class pay the same premium. In this way, insurers assure that premiums are appropriate to the risks presented and that all those who present the same level of risk pay the same premiums.

If insurers were not allowed to access health information known to the applicant, the underwriting process could not function. Accordingly, people who want the protection that life insurance provides would no longer pay rates based on the risks they present.

A recent study by the American Academy of Actuaries indicated that there would be a dramatic increase in premiums if no underwriting were allowed. With an increase in rates, there would be an accompanying change in buying patterns. High-risk individuals would tend to buy more than the average amount, and individuals with low risks would tend not to buy at all because the higher price would no longer be commensurate with the risk. The resulting influx of high-risk individuals would lead to spiraling premiums that would discourage low-risk participation even further. Taken to its logical conclusion, because premium costs theoretically could approach the amount of benefit to be paid, the entire voluntary private insurance mechanism could fall apart.

Why is risk classification preferable to a universal type life insurance system in which the more healthy subsidize the less healthy?

There is no evidence that insurance consumers are dissatisfied with the current, private system of life and disability protection. Without complete risk classification, some form of socialized risk protection would have to be devised, in which the government decides how much insurance protection an individual should have and who is entitled to it. The socialization of risk involves very significant costs. The nature of the costs will depend on the nature of the public protection system devised. They may involve subsidization of unhealthy people by healthy people. They may involve increased taxes or employer mandates to provide coverage. Participation in a public protection program probably would have to be mandatory. Life insurance consumers do not desire such a fundamental restructuring of the current marketplace.

CONCLUSION

There are several key points to remember when discussing potential changes to Wisconsin's genetic testing law:

➤ **Life and disability income insurance is very different from medical expense insurance.** Life insurance is often a life-long contract between an insurance provider and a policyowner. Once a life insurance contract is put into force, coverage cannot be cancelled (except for non-payment of premiums) and generally rates cannot be increased.

➤ **Life insurers want to sell insurance, not decline applicants.** There is only a small minority of cases where individuals are denied life insurance. Overall, over 98% of insurance applicants have good enough health to receive coverage. Life insurers prosper by having more policyholders, not by refusing applicants who present slightly higher risks.

➤ **Private life insurance cannot exist without risk selection.** If there was an economically viable way to provide individual life insurance protection without risk classification, insurers would be doing it. The simple fact is that without risk selection and the underwriting process, prices would escalate and eventually the private life insurance system would fall apart.

➤ **Insurers want a level playing field of knowledge and the right to obtain all information relevant to the risk.** Genetic testing is not something the life insurance industry sought, but something it has been forced to deal with in its day-to-day operations. Should the predictive value of genetic tests improve and their use become commonplace among medical clinicians, however, insurers in the future may wish to use genetic tests as part of the underwriting process.



Assembly

Record of Committee Proceedings

Committee on Consumer Affairs

Assembly Bill 157

Relating to: prohibiting insurers from requesting genetic test information from health care providers.

By Representatives Wasserman, Schneider, Urban, Ainsworth, Baldwin, Bock, Carpenter, Cullen, Dobyns, Hahn, Hasenohrl, Huber, Kreuser, Ladwig, La Fave, Murat, Musser, Notestein, Reynolds, Riley, Robson, Ryba, L. Young, Ziegelbauer, Gronemus and Gunderson; cosponsored by Senators Grobschmidt, Buettner and Moen.

March 6, 1997

Referred to committee on Consumer Affairs.

May 8, 1997

PUBLIC HEARING HELD

Present: (8) Representatives Otte, Johnsrud, Ott, M. Lehman, Urban, Williams, Hasenohrl and Black.

Absent: (0) None.

Appearances for

- Greg Chesmore, Pro-Life Wisconsin, Janesville
- Representative Sheldon Wasserman, author

Appearances against

- None

Appearances for Information Only

- None.

Registrations for

- Representative David Cullen
- Mary Matuska, Pro-Life Wisconsin, Beloit
- Kelly Rosati, Association of WI HMOs, Madison
- Colleen Wilson, State Medical Society, Madison

Registrations against

- None

October 23, 1997

EXECUTIVE SESSION

Present: (7) Representatives Otte, Johnsrud, Ott, M.
Lehman, Urban, Williams and Black.
Absent: (1) Representative Hasenohrl.

Moved by Representative Urban, seconded by Representative M.
Lehman, that **Assembly Amendment 1** be recommended for
introduction.

Ayes: (7) Representative Otte, Johnsrud, Ott, M.
Lehman, Urban, Williams and Black.
Noes: (0) None.
Absent: (1) Representative Hasenohrl.

INTRODUCTION RECOMMENDED, Ayes 7, Noes 0, Absent 1

Moved by Representative Urban, seconded by Representative M.
Lehman, that **Assembly Amendment 1** be recommended for
adoption.

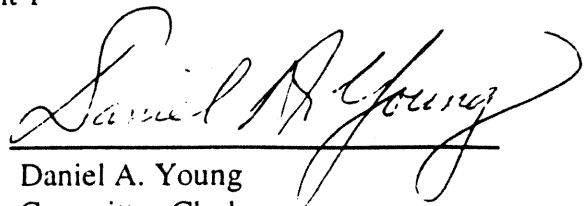
Ayes: (7) Representative Otte, Johnsrud, Ott, M.
Lehman, Urban, Williams and Black.
Noes: (0) None.
Absent: (1) Representative Hasenohrl.

ADOPTION RECOMMENDED, Ayes 7, Noes 0, Absent 1

Moved by Representative Johnsrud, seconded by Representative
Urban, that **Assembly Bill 157** be recommended for passage as
amended.

Ayes: (7) Representatives Otte, Johnsrud, Ott, M.
Lehman, Urban, Williams and Black.
Noes: (0) None.
Absent: (1) Representative Hasenohrl.

**PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0,
Absent 1**



Daniel A. Young
Committee Clerk

Assembly Hearing Slip

(Please print plainly)

Date: 8 May 1997

Bill No. AB 157

Or
Subject _____

Colleen Wilson
(Name)

330 E Lakeside St
(Street Address or Route Number)

Madison 53715
(City & Zip Code)

State Medical Society
(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5/8/97

Bill No. AB 157

Or
Subject _____

Greg Chesmore
(Name)

PO BOX 8104
(Street Address or Route Number)

JAMESVILLE 53547
(City & Zip Code)

HO-LIFE WISCONSIN
(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5/19/97

Bill No. _____

Or
Subject AB 157

Ken Davis Lucas
(Name)

5 Wynn
(Street Address or Route Number)

(City & Zip Code)

(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:

Neither for nor against:

Please return this slip to a messenger from

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5-9-97

Bill No. AB 157

Or
Subject _____

MARY MATUSKA
(Name)

292 8th
(Street Address or Route Number)

BELEIT WI
(City & Zip Code)

No State Treasurer
(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5/8/97

Bill No. AB 157

Or
Subject _____

Kelly Rosati
(Name)

2 E. M. Hill St 701
(Street Address or Route Number)

Madison, WI 53703
(City & Zip Code)

Association of WI HMO's
(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 5/8/97

Bill No. AB 157

Or
Subject _____

Sheldon Weller
(Name)

State Capitol
(Street Address or Route Number)

Madison
(City & Zip Code)

Weller
(Representing)

Speaking In favor:

Speaking against:

Registering In favor:

Registering against:

Speaking for Information only:
Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly

Committee Report

The committee on Consumer Affairs, reports and recommends:

Assembly Bill 157

Relating to: prohibiting insurers from requesting genetic test information from health care providers.

By Representatives Wasserman, Schneider, Urban, Ainsworth, Baldwin, Bock, Carpenter, Cullen, Dobyms, Hahn, Hasenohrl, Huber, Kreuser, Ladwig, La Fave, Murat, Musser, Notestein, Reynolds, Riley, Robson, Ryba, L. Young, Ziegelbauer, Gronemus and Gunderson; cosponsored by Senators Grobschmidt, Buettner and Moen.

INTRODUCTION OF ASSEMBLY AMENDMENT 1 , Ayes 7, Noes 0, Absent 1

Ayes: (7) Representative Otte, Johnsrud, Ott, M. Lehman, Urban, Williams and Black.

Noes: (0) None.

Absent: (1) Representative Hasenohrl.

ADOPTION OF ASSEMBLY AMENDMENT 1, Ayes 7, Noes 0, Absent 1

Ayes: (7) Representative Otte, Johnsrud, Ott, M. Lehman, Urban, Williams and Black.

Noes: (0) None.

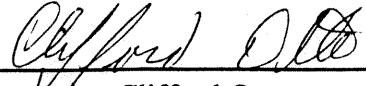
Absent: (1) Representative Hasenohrl.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0, Absent 1

Ayes: (7) Representatives Otte, Johnsrud, Ott, M. Lehman, Urban, Williams and Black.

Noes: (0) None.

Absent: (1) Representative Hasenohrl.



Representative Clifford Otte
Chair

Vote Record

Assembly Committee on Consumer Affairs

Date: 10/23/97
 Moved by: Urban Seconded by: Lehman
 AB: _____ Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ Other: AA LRBa 0808/1 to AB157
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input checked="" type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Clifford Otte, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Michael Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Frank Urban	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Hasenohr	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 7 0 1 0

Motion Carried

Motion Failed

Vote Record

Assembly Committee on Consumer Affairs

Date: 10/23/97
 Moved by: Urban Seconded by: Lehman
 AB: _____ Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ Other: adoption of AA LRB20808/1
 A: _____ to AB 157

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Clifford Otte, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Michael Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Frank Urban	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Hasenohrl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 7 0 1 0

Vote Record

Assembly Committee on Consumer Affairs

Date: 10/23/97
 Moved by: Johnsrud Seconded by: Urban
 AB: 157 Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ SR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage, *as amended*
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Clifford Otte, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Michael Lehman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Frank Urban	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Hasenohr	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 7 0 1 0

Motion Carried

Motion Failed