

Senate ban on genetic tests advances with bipartisan support

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WASHINGTON — After years of talking about the issue, a Senate committee approved legislation last week to bar employers and insurers from discriminating against people based on genetic information.

The legislation, which has bipartisan support, was approved on a voice vote.

The bill would bar health insurance companies from using genetic information to deny coverage or to set premiums, and would prohibit employers from using such information to hire or fire workers. Neither insurers nor employers could ask for genetic information or require people to take genetic tests.

Advances in genetics make it possible to identify people's predisposition to cancer, heart attack and other diseases. Many people worry this information could be used to discriminate against them.

"Today public policy catches up with science to ensure that all Americans can realize the promise of advances made in the field of genetic science," said Sen. Judd Gregg, R-N.H., chairman of the Senate Health, Education, Labor and Pensions Committee.

Sen. Kennedy

Massachusetts Sen. Edward Kennedy, the top Democrat on the committee, said while science has allowed for advances in health care, it also "carries the danger that genetic information will be used as a basis for discrimination."

For example, a Texas-based railroad, Burlington Northern Santa Fe, at one time conducted genetic tests on workers who complained of carpal tunnel syndrome; the company hoped to prove the injuries were not job-related. Advocates say health insurance companies might charge people higher premiums if they are statistically more likely to get sick.

Under an executive order signed by President Clinton, federal employees were protected from genetic discrimination for two years. In 2001, President Bush urged Congress to act.

Health and Human Services Secretary Tommy Thompson wrote Gregg this week to express the administration's strong support for the legislation.

Health insurers and business groups say there is no evidence of abuse and the legislation is not needed.

"Federal nondiscrimination legislation has never been based on potential or theoretical discrimination, but, rather, on some appreciable history of actual discrimination," R. Bruce Josten of the U.S. Chamber of Commerce said in a letter to Gregg.

Health insurers also complain the bill could limit what they say is their ability to appropriately and fairly set premiums, barring use of information on current health status that is used now.

Unlike a Democratic-backed bill in the House, the Senate legislation does not give people who are harmed a new right to sue. It mostly relies on existing remedies.

Those who claim discrimination by an employer can complain to the Equal Employment Opportunity Commission, just as they would in the case of racial or sex discrimination, and can file civil claims.

Those who claim discrimination by a health insurer would not be able to sue in state court if the insurer is covered by a federal benefits law, as most large insurance plans are.

Rather, alleged victims could sue in federal court for the cost of the services lost, plus an additional administrative penalty created by the bill. In addition, violators would be subject to prosecution under new health privacy rules that allow for jail time and up to \$250,000 fines for the worst offenders. □