To: Commission  
From: Vito J. Petitti  
Re: Uniform Protection of Genetic Information in Employment Act  
Date: January 5, 2014

Memorandum

Executive Summary

In May 2014, the Commission approved Staff's request to research and evaluate whether the Uniform Protection of Genetic Information in Employment Act (UPGIEA) should be adopted in New Jersey. In July 2014, the Commission directed Staff to consider the possibility of reorganizing the provisions of New Jersey’s Genetic Privacy Act (GPA), some of which are not arranged sequentially, to reflect more closely the structure of the UPGIEA.¹ Based upon further analysis and consultation with the Office of Legislative Services, Staff does not recommend an organizational revision of the GPA at this time.

Discussion

The Genetic Privacy Act, also known as P.L. 1996, c.126, contains 16 separate sections, not all of which are arranged sequentially. Although the drafter of the act has retired and is unavailable, Staff learned a great deal by consulting with the Office of Legislative Counsel, Office of Legislative Services (OLS). It appears there was a method to the division of the sections of the GPA. Sections 1 through 10 of the act are as follows:

1. N.J.S. 10:5-43. Short title; Genetic Privacy Act
2. N.J.S. 10:5-44. Legislative findings and declaration
3. Amendment to N.J.S. 17B:30-12. Discrimination prohibited; terms defined
4. Amendment to N.J.S. 10:5-5. Definitions
5. Amendment to N.J.S. 10:5-12. Unlawful employment practice or unlawful discrimination
6. N.J.S. 10:5-45. Genetic information not to be obtained without prior consent; exceptions
7. N.J.S. 10:5-46. Prior informed consent required for retention of genetic information; exceptions
10. N.J.S. 10:5-49. Violations; penalties

For the most part, the GPA is grouped together sequentially, except for three amendments (Numbers 3-5, above) relating to Chapter 5’s Law Against Discrimination and discrimination in

insurance, specifically. In addition to the above ten sections, the GPA includes an insurance mandate. While Sections 11 through 16 are not technically part of the GPA as defined in the first section of the act, each section below concerns a different kind of insurance contract. While it seems unusual at first glance to find them in six different places in the statutes, this is the custom in New Jersey for insurance mandates. Each section of 11 through 16 concerns a different kind of insurance contract, including hospital services contracts, medical services contracts, health services contracts, individual health insurance policies, group health insurance policies, and contracts for health care services, as follows:

11. N.J.S. 17:48-6.18. Hospital service corporation contracts; prohibition against exclusion, rates or terms based on genetic characteristic
12. N.J.S. 17:48A-6.11. Medical service corporation contracts; prohibition against exclusion, rates or terms based on genetic characteristic
13. N.J.S. 17:48E-15.2. Health service corporation contracts; prohibition against exclusion, rates or terms based on genetic characteristic
14. N.J.S. 17B:26-3.2. Individual health insurance policies; prohibition against exclusion, rates or terms based on genetic characteristic
15. N.J.S. 17B:27-36.2. Group health insurance policies; prohibition against exclusion, rates, or terms based on genetic characteristic
16. N.J.S. 26:2J-15.1. Health care services contracts; prohibition against exclusion, rates or terms based on genetic characteristic

According to the Office of Legislative Counsel, similar laws may be found in which the same mandate is repeated in different parts of New Jersey statutory law. This is a feature of New Jersey insurance law generally and is probably attributable to the historical development of the many different kinds of insurance offered in the state. Other statutory examples of insurance mandates include:

- L.2013, c. 50 (mandating coverage of prescription eye drop refills)
- L.2011, c. 210 (mandating coverage of sickle cell anemia treatment)
- L.2011, c. 188 (mandating coverage of certain oral anti-cancer drugs)
- L.2009, c. 115 (mandating coverage of autism treatment)
- L.2009, c. 113 (mandating installment payments for certain covered maternity services)

The above laws are similar in structure to Sections 11 through 16 of the GPA and the OLS Office of Legislative Counsel advises Staff that such examples of this drafting technique go back many years. Given that a significant portion of the GPA is already organized sequentially and that there is a logical explanation for the arrangement of the other sections as discussed above, Staff is not recommending an organizational revision.