

## CHAPTER 121—H.F.No. 1106

*An act relating to health; limiting use of health information secured as part of HIV vaccine research; for insurance underwriting; amending Minnesota Statutes 1998, section 72A.20, by adding a subdivision.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 72A.20, is amended by adding a subdivision to read:

Subd. 29a. **HIV TESTS; VACCINE RESEARCH.** (a) No insurer regulated under chapter 61A or 62B, or providing health, medical, hospitalization, or accident and sickness insurance regulated under chapter 62A, or nonprofit health services corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract based solely on the fact of a person's participation in a human immunodeficiency virus (HIV) vaccine clinical trial.

(b) If a test to determine the presence of the HIV antibody is performed at the insurer's direction, as part of the insurer's normal underwriting requirements or on any other basis, and an applicant or covered person is a participant or former participant in a vaccine clinical trial and tests positive for the HIV antibody in the insurer-directed test, the person shall disclose the person's status as a participant or former participant in a vaccine clinical trial and provide the insurance company with certification from the trial sponsor of the person's participation or former participation in the vaccine trial. Upon that notification, an insurer shall stay any adverse decision or refrain from making an underwriting decision to cancel, fail to renew, or take any other action based solely on the positive test result until the insurer obtains a confidential certificate from the sponsor of the trial verifying the person's HIV status. If the confidential certificate indicates that the person's HIV antibodies are a result of exposure to the vaccine, that the person does not have the HIV virus, and that the person did not test positive for the HIV virus in any test administered by the trial sponsor prior to entering the vaccine clinical trial, the insurer shall ignore the presence of the HIV antibody in the insurer-directed test.

(c) This subdivision does not affect any tests to determine the presence of the HIV antibody, except as provided under paragraph (b).

(d) This subdivision does not apply to persons who are confirmed as having the HIV virus.

(e) For purposes of this subdivision, "vaccine clinical trial" means a clinical trial conducted by a sponsor under an investigational new drug application as provided by Code of Federal Regulations, title 21, section 312. "Sponsor" means the hospital, clinic, or health care professional that is conducting the vaccine clinical trial.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:21 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.