

May 15, 2017
M17-013

To: SPEEA Council

From: SPEEA L&PA Committee

Subject: **Presubmitted New Business** – Opposition to the “Preserving Employee Wellness Programs Act”, HR1313. Or any bills like it that allow companies to pressure the use of employees DNA in wellness programs.

Background

Employee rights groups have fought this bill. Fortune magazine and Huffington Post have articles below on this in links section.

Imagine you just landed your dream job. It's your first day: you're meeting the team, filling out paperwork, and getting signed up for benefits. Your boss tells you they have an employee wellness program. You can save money on your health insurance and even get paid for doing things like getting your blood pressure checked, going to the gym, and quitting smoking. Great! Then you read the fine print — **your employer requires you to submit to genetic testing or else you will have to pay 30% more on your health insurance.** That will soon be legal if HR 1313, the Preserving Employer Wellness Programs Act, passes. HR 1313 is a huge invasion of privacy — not to mention scientifically unsound. According to top doctors and medical ethicists, there is no genetic test currently available that can help your doctor evaluate your health risks in a meaningful way. What's more — the genetic testing industry is largely unregulated. Current commercially available tests are rife with inaccuracies, increasing the likelihood that genetic information can be misused to wrongfully penalize employees. It's not hard to imagine employers using genetic testing to purge employees they think will cost them more money in health care costs. Today, it is illegal under the Genetic Information Nondiscrimination Act (GINA) to discriminate against people in employment or for health insurance based on their genetic material. This law works because under the current regime, no one is required or economically coerced into DNA testing, and employers have no right to genetic results. HR 1313 bill blows a wide hole through the spirit of GINA. If widespread workplace genetic testing is adopted as a result of this bill, it is just a matter of time before companies will use this information against employees to help its bottom line.

In a letter sent to the committee earlier this week, [nearly 70 organizations](#)— representing consumer, health and medical advocacy groups, including the American Academy of Pediatrics, AARP, March of Dimes and the National Women's Law Center — said the legislation, if enacted, would undermine basic privacy provisions of the Americans With Disabilities Act and the 2008 Genetic Information Nondiscrimination Act ([GINA](#)).

Link to 70 groups opposing this bill

<https://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/HR1313groupoppositionletter030717.pdf>

Rep. Virginia Foxx (R–NC-5) has introduced bill, HR 1313. The Preserving Employee Wellness Programs Act. It has been referred to the subcommittee on Health. The co-sponsors so far are Reps. Tim Walberg (R–MI-7), Elise Stefanik (R-NY-21), Paul Mitchell (R-MI-10), Luke Messer (R-IN-6) and Thomas Garrett Jr. (R-VA-5).

Summary of the bill.

Introduced in House (03/02/2017)

Preserving Employee Wellness Programs Act

Note: Per SPEEA Policy Section V subsection A. Paragraph 5 “Passage or adoption of any SPEEA legislative or public issues proposal shall be by published ballot and require:

a) Total affirmative vote cast must be at least a simple majority of the total number of seated Council Representatives. Council Representatives who are employed beyond 50 statute miles from the meeting and are unable to attend are excluded from the total number required.”

This bill **exempts** workplace wellness programs from: (1) limitations under the Americans with Disabilities Act of 1990 on medical examinations and inquiries of employees, (2) **the prohibition on collecting genetic information in connection with issuing health insurance, and (3) limitations under the Genetic Information Nondiscrimination Act of 2008 on collecting the genetic information of employees or family members of employees. This exemption applies to workplace wellness programs that comply with limits on rewards for employees participating in the program.**

Workplace wellness programs may provide for more favorable treatment of individuals with adverse health factors, such as a disability.

Collection of information about a disease or disorder of a family member as part of a workplace wellness program is not an unlawful acquisition of genetic information about another family member.

Links

<https://www.congress.gov/bill/115th-congress/house-bill/1313>

<https://www.congress.gov/bill/115th-congress/house-bill/1313/text>

<http://fortune.com/2017/03/10/genetic-testing-workplace-wellness-bill/>

https://www.washingtonpost.com/news/to-your-health/wp/2017/03/11/employees-who-decline-genetic-testing-could-face-penalties-under-proposed-bill/?utm_term=.e0bcd9c30d15

http://www.huffingtonpost.com/entry/workplace-genetic-privacy-bill-gina_us_58c6e4c5e4b081a56dee48cf

https://www.eurekalert.org/pub_releases/2017-03/asoh-aoh030817.php

<http://blogs.plos.org/dnascience/2017/03/09/saving-gina-is-genetic-privacy-imperiled/>

<https://www.statnews.com/2017/03/10/workplace-wellness-genetic-testing/>

<http://www.snopes.com/genetic-testing-bill/>

<https://www.change.org/p/u-s-senate-contact-congress-don-t-approve-h-r-1313-employees-required-to-provide-dna-to-employers>

Motion

It is moved that: **THE SPEEA COUNCIL opposes the Preserving Employee Wellness Programs Act, HR1313, or any bills like it that allow companies to pressure the use of employee's DNA in wellness programs.**

SPEEA L&PA committee recommends approval of this action.

PRO:

- Will help protect workers, especially those whose employers are self-insured, and maybe tempted to use the data to screen out employees with DNA that hints at higher cost medical issues.

CON:

- If this bill, H1313, does not pass employers might not offer discounts to those willing to submit to genetic testing.

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