

In 1995 the California State legislature enacted a law which says that for purposes of insurance coverage a person may not be considered to have a disease until he or she exhibits specific symptoms. The legislation is intended to prevent insurance companies from denying coverage, or charging extremely high rates for coverage, to individuals on the basis of information about their genetic make-ups. In this connection, on-going scientific discoveries, associated with the major federally funded research project to map the human genome, are making it possible to test, with increasing accuracy, a person's predisposition to various disorders. For example, scientists have discovered two genes which, when mutated, cause breast cancer, accounting for at least 80% of this illness in women with strong family histories of it. Unfortunately, at this time there is nothing physicians can recommend to women with a strong genetic predisposition to breast cancer in order to reduce the risk of dying from it. The California law forbids doctors from releasing genetic tests to insurers or employers. The insurance industry is strongly critical of the California law. An industry spokesman, Harold Raimond, expressed the view that "he who assumes a risk should have the opportunity to evaluate that risk." According to Raimond, insurance companies do not seek to have genetic testing done, but if it is done then it isn't fair, according to Raimond, for individuals to have privileged information about their health conditions absolutely denied to the company.

Is the new California law morally justified? If so, why? If not, why not?

MODERATOR'S ANSWER: The new California law is morally justifiable. Making the kind of information generated by new genetic testing procedures available to insurance companies and employers would result in vastly increased health insurance premiums for many individuals and possibly also in employment discrimination against them, which would be financially devastating. The burdens in this connection theoretically could be reduced by spreading them over the entire society through enactment of universal health insurance, but this has proven politically impossible in the United States at this time. For these reasons it seems most fair to maintain the status quo, which is what the California law tries to do, by not allowing physicians to release the results of genetic tests to insurance companies and employers.

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