**Cancer Society of New Zealand**

**Submission on the Draft Insurance Contracts Bill**

**Submitted to: Ministry of Business, Innovation and Employment**

**4 May 2022**

This submission is by the Cancer Society of New Zealand. We are a registered charity focused on reducing the impact and incidence of cancer in New Zealand. As cancer is a significant health burden in New Zealand and New Zealand’s leading cause of death, we have an interest in insurance law (particular for health and life insurance).

We wanted to raise an aspect of insurance law practice that we think is unfair and inappropriate – the potential for genomic discrimination in New Zealand health and life insurance policies.

As well as being unfair, allowing insurers to discriminate based on genomic tests would have adverse policy consequences. Policy settings in New Zealand should encourage people to undertake medical tests (as this leads to better health outcomes e.g. through early diagnosis, better preventative measures and more targeted treatments).

We encourage New Zealand to follow Canada’s lead and ban the use of genetic tests by life and health insurers, as there are good public health reasons for this.

A group of New Zealand clinicians, academics, scientists, lawyers, and representatives from Māori, Pacifica, medical charities and patient groups have formed a collaborative alliance known as “Against Genomic Discrimination Aoteoroa”, or AGenDA, to highlight this issue. AGenDA recommends that a complete ban on the use of genomic information by insurance companies is necessary for the advancement of genomic medicine and the protection of all New Zealanders. We have attached a NZ Medical Journal article by AGenDA that describes the concerns in more detail. While the Cancer Society is not formally a member of this group, we support their mahi.

In addition, a 2021 article by Professor Andrew Shelling of the University of Auckland also highlights the issue

[https://www.auckland.ac.nz/en/news/2021/10/05/genetic-discrimination.html#:~:text=A%20ban%20on%20insurers'%20use,expire%20in%202024%20unless%20renewed](https://apc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.auckland.ac.nz%2Fen%2Fnews%2F2021%2F10%2F05%2Fgenetic-discrimination.html%23%3A~%3Atext%3DA%2520ban%2520on%2520insurers%27%2520use%2Cexpire%2520in%25202024%2520unless%2520renewed&data=05%7C01%7Clucy%40cancer.org.nz%7C0b34306300c74a07768a08da2cef7808%7Ccc1ce59b95a8439abd4e5251edce3d8c%7C0%7C0%7C637871704334646282%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=Skj04kshO%2F2B%2FskEbtG%2FwPOkclXPe6957yOHHgNACeI%3D&reserved=0)).

The Cancer Society hopes that including protections in the Insurance Contracts Bill against genomic discrimination would fall under a broad interpretation of the Government’ policy decisions from November 2019 (i.e. to strengthen protections for unfair terms in insurance contracts).

Because genomic discrimination is a discrete issue, we think the clearest way to regulate for a ban by insurers on the use of genetic tests would be a clause within the Bill, e.g. perhaps through a new section in Part 3, subpart 1.

In addition, we also support Option A in clause 171 of the Bill as exclusion clauses should be subject to challenge as unfair terms.

We understand that the Official Information Act applies to this submission and that it may be disclosed, e.g. on your website. This submission is not confidential.

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Cancer Society of New Zealand