

基因檢測得否為 保險核保資訊之芻議

A Discussion on Allowing the Use of Genetic
Testing Results in Insurance Underwriting

賴煥升 Huan-Sheng Lai *



摘要

保險制度為分散風險之機制，以人身保險為例，保險業者需獲得被保險人相關體況資訊以評估危險、決定承保條件與費率。基因科技發展使人類得以預測未來健康狀況及罹病機率，從合理估計風險之角度，此類資訊本應提供予保險人作為核保考量。但基因資訊具獨特性，倘作為人身保險核保依據，亦產生侵害隱私權以及基因歧視之質疑。基此，本文試就上述議題為分析，希冀作為日後對於基因資訊於人身保險使用規範之法律政策參考。

Insurance systems function as risk distribution mechanisms. In the context of life insurance, insurers require access to relevant health information of the insured to assess risks

*國立中興大學法律學系即法律專業學院專任助理教授 (Assistant Professor, Dept. of Law of National Chung Hsing University)

關鍵詞：告知說明義務 (duty of disclosure)、保險核保 (insurance underwriting)、基因歧視 (genetic discrimination)、基因資訊 (genetic information)、預防性基因檢測 (predictive genetic tests)

DOI: 10.53106/241553062025110109002

and determine underwriting conditions and premium rates. The advancement of genetic technology has enabled the prediction of future health status and disease susceptibility. From the perspective of reasonable risk estimation, such information should be provided to insurers for underwriting considerations. However, genetic information possesses distinctive characteristics, and its utilization as a basis for life insurance underwriting raises concerns regarding privacy infringement and genetic discrimination. Above all, this research paper analyzes the relevant issues, and the author hopes this research paper would serve as a reference for legal policies concerning the regulation of genetic information use in life insurance.

壹、前言

保險制度為分散風險之機制，以人身保險為例，保險業者需獲得被保險人相關體況資訊評估危險、決定承保條件與費率。純粹以保險精算技術之角度為觀察，保險人獲得更多有益核保之資訊時，可使風險費率精算得以更加細緻化，可預期保險費分布將會趨向平均，風險過度高估（或低估）之情形將會改善，過往風險評估過高，以至於保費過高或保險人拒絕提供保險，由於風險估算更為精確，可將過往不願意承保，但實則過度高估的風險，納入保險商品之費率估算之範圍；相對地，過往風險評估過低之部分，則可能增加保險費，以回應風險估計與保險費率之正常化¹。

基因科技發展使人類得以預測未來健康狀況及罹病機率，

1 Actuaries Institute, The Impact of Big Data on the Future of Insurance GREEN PAPER, 20(2016).