Opening Statement
The Honorable John Kline
Senior Republican Member
Subcommittee on Health, Employment, Labor, and Pensions
Hearing, "Protecting Workers from Genetic Discrimination"
January 30, 2007

Good Morning.

Let me first say welcome, and congratulations, to my friend and the new chairman of our Subcommittee, Rob Andrews of New Jersey. I had the distinct pleasure of working with Mr. Andrews throughout the years I've been on this Committee, and although we may disagree on the substance of an issue, I've always known him to be fair, courteous, open-minded, and one of the most dedicated members of our Committee. While I would of course prefer to be sitting in his seat this morning, I know and trust that as we convene today's first hearing of the new Health, Employment, Labor, and Pensions Subcommittee, that his fairness and open-mindedness will continue on this leg of the journey.

This morning's hearing is an important one, and I thank the chairman for beginning today what I hope will be the "regular order" of business in our Subcommittee and the Committee on Education and Labor as a whole. As we examine the range of issues within our Subcommittee – be they labor, health, pensions, or otherwise – I hope that we will be mindful of the importance of the hearing and markup processes, and that we will begin and continue any legislative journey with a close contemplation of the facts.

Let me turn now to the issue before us at today's hearing, "Protecting Workers from Genetic Discrimination."

At the outset, I think the title of today's hearing embodies a proposition that all members of the Subcommittee – Republican or Democrat – would endorse. Namely, that no employee should face discrimination on the basis of his or her genetic makeup – or indeed, on any characteristic other than his or her qualifications for and ability to do the job. The idea that an employee might face adverse job consequences or risk their health insurance status because of the possibility that they might someday develop an illness is simply unacceptable. Nor should the fear of those consequences deter any individual from seeking the fullest and best medical screening and treatment available. I think these are points on which we would all agree.

I will say, I am not sure that the case has been made that imposition of a broad new federal mandate on employers and insurers with respect to genetic discrimination is necessary. We'll hear from witnesses today that many "fear" that their genetic information may become public, or may be used against them in some fashion. I won't call that fear unfounded – but I will say that before we consider broad reform to our health insurance and employment laws, we need to determine whether there is a real problem here, and if so, which way is best to solve it.

Indeed, it bears noting that in the only recorded claim of genetic discrimination brought by the EEOC of which I am aware – and I think one of our witnesses today was in fact a plaintiff in that case – the matter was settled quickly and efficiently by the EEOC, which recovered $2.2 million dollars for the plaintiffs under existing law. Again, that is the only documented case of alleged discrimination by an employer in the private sector for which we have details – but that was five years ago, and since that time, to my knowledge, there has been no surge of lawsuits claiming that genetic discrimination by employers or insurers is a growing problem, despite the fact that our knowledge of the human genome, and our access to that information, has grown exponentially in that time. Indeed, to the extent there was a concern with the actions of a single employer, some would say the system worked exactly the way it should have – again, under existing law.

If we assume for the sake of argument that some legislative action is necessary – and as I said, to my mind, the jury is still out on that question – the question then becomes what form this action should take. If there are legitimate concerns that genetic information is being misused or otherwise presents a risk, it would seem a matter of simple common sense to target any "solution" to the actual "problem." To go after a mosquito with a machine gun may not be the best way to solve the problem – and almost surely will create others, some of which, I guarantee as sure as we are sitting here, none of us have yet thought of.

In that light, some have suggested that with respect to health insurance and insurance coverage, there may be greater consensus as to what legislative steps are helpful or necessary. If that is the case, a strong argument can be made for moving forward with insurance provisions on which there is agreement. We can then more closely examine issues relating more to employment and the broad use of genetic information in the workplace.

Finally, while today is an examination of the issue of genetic nondiscrimination generally, we will soon hear from two of our colleagues – including our good friend and Committee colleague, Mrs. Biggert – about one specific piece of legislation, the Genetic Information Nondiscrimination Act. I welcome their comments, and a close examination of the proposed solution they have put forward. I would say that as we approach this issue, I hope we are mindful that the committee process is intended to provide a forum for a close examination of a bill, with a goal of perfecting a legislative product, and improving whatever bill – if any – ultimately comes before all of us on the Floor of the House. Too often we hear "the devil is in the details" – on an issue as important as this one, it bears reminding that this Committee is charged with making sure "the details" are right.

I began my remarks this morning by commending the Chairman for starting the process of "regular order" on this issue – I hope that this process continues, and that to the extent we move on to consider legislation, we are given the opportunity to examine it thoroughly and to amend or improve it in a thoughtful and deliberate matter. To simply pass a bill along, or to succumb to pressure by any party to do so – does neither our colleagues nor this institution a service.

With that, I welcome our witnesses this morning, and yield back my time.