

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to creating a task force on universal long term care insurance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that the average length of life is increasing and that the
3 population as a whole is aging. The age sixty-five plus population is
4 expected to more than double between the years 2000 and 2030 to number
5 almost seventy million nationally. Sixty percent of those who reach age
6 sixty-five will need some form of long term care. In comparison to the
7 state's total population increase of five and one-half percent between
8 the years 1990 and 2000, the number of individuals age eighty-five and
9 older increased by twenty-five and one-half percent and is the fastest
10 growing segment of our population. Dynamic changes in the state's popu-
11 lation will continue to increase as the baby boom generation reaches age
12 sixty and continues to mature. As one would anticipate from these shifts
13 in demographics, the need for affordable long term care services is
14 growing and is expected to accelerate at a dramatic rate.

15 In New York state, the average yearly cost of a nursing home can range
16 from seventy thousand dollars to one hundred fifteen thousand dollars.
17 Twenty-four hour home health care can cost more than twice this much.
18 Many New Yorkers are unable to afford the high cost of long term care
19 insurance and must rely on Medicaid to pay for the costs of home health
20 or nursing home care.

21 Congress recognized the public benefit of social insurance when it
22 implemented Social Security in order to better the condition of each
23 American at his or her retirement and thereafter. Under its constitu-
24 tion, the state has an obligation to promote the general welfare of its

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 citizens by enabling them to access the care they will need in their old
2 age without having to impoverish themselves. This act is a reflection of
3 state concern for the lack of alternatives to Medicaid that are avail-
4 able to the citizens of New York in order to finance the astronomical
5 costs of long term care. Accordingly, it charges the governor and the
6 legislature with the responsibility of creating a plan that would estab-
7 lish a system of mandatory long term care insurance for all New Yorkers.
8 This approach, premised on the principle of universal coverage in
9 exchange for universal responsibility, will ensure that every resident
10 of the state receives the protection of long term care insurance bene-
11 fits in his or her old age.

12 S 2. The insurance law is amended by adding a new section 1117-a to
13 read as follows:

14 S 1117-A. TASK FORCE ON UNIVERSAL LONG TERM CARE INSURANCE. (A)
15 CREATION. A TASK FORCE IS HEREBY CREATED TO DEVELOP A PLAN FOR THE
16 FINANCING AND PROVISIONS OF UNIVERSAL LONG TERM CARE INSURANCE FOR ALL
17 RESIDENTS OF THE STATE.

18 (B) ACTIVITIES. IN FORMULATING ITS PLAN, THE ACTIVITIES OF THE TASK
19 FORCE SHALL INCLUDE BUT NOT BE LIMITED TO:

20 (1) ANALYZING AND REPORTING ON THE CURRENT LONG TERM CARE INSURANCE
21 OFFERINGS IN THE STATE, THEIR AFFORDABILITY AND THE ADEQUACY OF POLICY
22 BENEFITS;

23 (2) DETERMINING HOW INDIVIDUAL TAXPAYER CONTRIBUTIONS MAY BE USED TO
24 FUND THE PURCHASE OF LONG TERM CARE INSURANCE FOR ALL RESIDENTS OF THE
25 STATE;

26 (3) DETERMINING AND DEVELOPING THE BENEFITS THAT SHALL BE PROVIDED
27 WITH AN EMPHASIS ON FLEXIBILITY IN MEETING THE DESIRE OF INDIVIDUALS TO
28 AGE IN PLACE IN THEIR HOMES;

29 (4) DETERMINING HOW BENEFITS SHALL BE ALLOCATED;

30 (5) DEVELOPING CRITERIA FOR INSURER PARTICIPATION;

31 (6) DEVISING A MEANS FOR ENSURING PORTABILITY OF CONTRIBUTIONS;

32 (7) ENSURING THE FINANCIAL STRENGTH OF PARTICIPATING INSURERS; AND

33 (8) EVALUATING THE USE OF PRE-EXISTING MEDICAL CONDITIONS AS A BASIS
34 FOR DENYING BENEFITS.

35 (C) COMPOSITION. THE TASK FORCE SHALL CONSIST OF EIGHTEEN MEMBERS. THE
36 TASK FORCE SHALL INCLUDE THE DIRECTOR OF THE OFFICE FOR THE AGING, WHO
37 SHALL SERVE AS CHAIRPERSON OF THE TASK FORCE, AND THE FOLLOWING INDIVID-
38 UALS OR THEIR DESIGNEES: THE SUPERINTENDENT, THE COMMISSIONER OF HEALTH,
39 THE COMMISSIONER OF TAXATION AND FINANCE, THE COMPTROLLER, THE ATTORNEY
40 GENERAL AND THE DIRECTOR OF THE DIVISION OF THE BUDGET. THE GOVERNOR,
41 THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY
42 SHALL EACH APPOINT THREE MEMBERS, AND THE MINORITY LEADER OF THE SENATE
43 AND THE MINORITY LEADER OF THE ASSEMBLY SHALL EACH APPOINT ONE MEMBER,
44 OF WHOM SIX MEMBERS SHALL BE STAKEHOLDERS FROM THE LONG TERM HEALTH CARE
45 COMMUNITY AND THE REMAINING FIVE MEMBERS SHALL INCLUDE INDIVIDUALS WHO
46 ARE EXPERTS IN THE FIELDS OF STATISTICS, ACTUARIAL SCIENCE, ECONOMICS,
47 OR FISCAL AND PUBLIC POLICY, IN ADDITION TO CONSUMER RIGHTS ADVOCATES OR
48 REPRESENTATIVES OF RETIRED PERSONS, THE ELDERLY OR LONG TERM CARE INSUR-
49 ANCE PROVIDERS OR THEIR REPRESENTATIVES.

50 (D) POWERS AND DUTIES. (1) THE TASK FORCE SHALL HAVE THE POWER TO
51 RECEIVE FROM ANY DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, AGENCY
52 OR OTHER INSTRUMENTALITY OF THE STATE OR OF ANY POLITICAL SUBDIVISION
53 THEREOF SUCH ASSISTANCE AND DATA AS WILL ENABLE IT PROPERLY TO CARRY OUT
54 ITS ACTIVITIES HEREUNDER.

55 (2) THE TASK FORCE SHALL MEET AT LEAST ONCE EVERY TWO MONTHS, AND AT
56 THE CALL OF THE CHAIRPERSON.

1 (3) THE TASK FORCE SHALL ISSUE A REPORT WITHIN SIX MONTHS AFTER ITS
2 INITIAL MEETING DETAILING ITS PROGRESS. THE REPORT SHALL CONTAIN INFOR-
3 MATION PERTAINING TO THE OPERATIONS OF THE TASK FORCE INCLUDING HOW MANY
4 TIMES THE TASK FORCE HAS CONVENED, THE KEY ISSUES IT HAS CONSIDERED AT
5 ITS MEETINGS, THE OBSTACLES IT HAS IDENTIFIED (IF ANY) AND A TIME FRAME
6 WITH BENCH MARKS FOR DELIVERING ITS PLAN.

7 (4) THE TASK FORCE SHALL ISSUE AN INTERIM REPORT WITHIN TWELVE MONTHS
8 AFTER ITS INITIAL MEETING AND A SECOND INTERIM REPORT WITHIN EIGHTEEN
9 MONTHS AFTER ITS INITIAL MEETING. THE INTERIM REPORTS SHALL CONTAIN
10 UPDATES OF THE INFORMATION PROVIDED IN THE INITIAL REPORT AND ANY OTHER
11 PERTINENT INFORMATION PERTAINING TO THE OPERATIONS OF THE TASK FORCE.

12 (5) WITHIN TWENTY-FOUR MONTHS OF ITS INITIAL MEETING, THE TASK FORCE
13 SHALL ISSUE ITS FINAL REPORT WHICH SHALL CONTAIN ITS PLAN FOR THE
14 FINANCING AND PROVISIONS OF LONG TERM CARE INSURANCE FOR ALL RESIDENTS
15 OF THE STATE.

16 (6) COPIES OF THE SIX MONTH REPORT, THE INTERIM REPORTS AND THE FINAL
17 REPORT SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
18 THE SENATE AND THE SPEAKER OF THE ASSEMBLY. COPIES OF SUCH REPORTS SHALL
19 ALSO BE MADE AVAILABLE TO THE PUBLIC AND POSTED ON THE OFFICE FOR THE
20 AGING WEBSITE.

21 (7) PRIOR TO ISSUING ITS FINAL REPORT, THE TASK FORCE SHALL HOLD AT
22 LEAST SIX PUBLIC HEARINGS RELATING TO THE ISSUE OF PROVIDING AND FINANC-
23 ING UNIVERSAL LONG TERM CARE INSURANCE FOR THE RESIDENTS OF THE STATE.
24 THE FIRST TWO HEARINGS SHALL OCCUR WITHIN THREE MONTHS AFTER THE INITIAL
25 MEETING OF THE TASK FORCE FOR THE PURPOSE OF INFORMATION GATHERING AND
26 SOLICITING PUBLIC OPINION AND COMMENT. THE THIRD AND FOURTH HEARINGS,
27 THE PURPOSE OF WHICH SHALL BE DETERMINED BY THE TASK FORCE, SHALL OCCUR
28 WITHIN TWELVE MONTHS AFTER THE INITIAL MEETING OF THE TASK FORCE. THE
29 LAST TWO HEARINGS SHALL OCCUR NO LATER THAN ONE MONTH AFTER THE TASK
30 FORCE HAS COMPLETED ITS FINAL REPORT FOR THE PURPOSE OF SOLICITING
31 PUBLIC OPINION AND COMMENT.

32 (8) THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
33 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
34 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

35 S 3. This act shall take effect immediately.