

S T A T E O F N E W Y O R K

1666--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. ENGLEBRIGHT, GALEF, J. RIVERA, SWEENEY, PHEFFER, BRENNAN, GUNTHER, CAHILL, ROBINSON, WRIGHT, PERRY, GABRYSZAK, SCHROEDER -- Multi-Sponsored by -- M. of A. ABBATE, COLTON, KOON, LANCMAN, LIFTON, MILLMAN, REILLY -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 insurance and must rely on Medicaid to pay for the costs of home health
2 or nursing home care.

3 Congress recognized the public benefit of social insurance when it
4 implemented Social Security in order to better the condition of each
5 American at his or her retirement and thereafter. Under its constitu-
6 tion, the state has an obligation to promote the general welfare of its
7 citizens by enabling them to access the care they will need in their old
8 age without having to impoverish themselves. This act is a reflection of
9 state concern for the lack of alternatives to Medicaid that are avail-
10 able to the citizens of New York in order to finance the astronomical
11 costs of long term care. Accordingly, it charges the governor and the
12 legislature with the responsibility of creating a plan that would estab-
13 lish a system of mandatory long term care insurance for all New Yorkers.
14 This approach, premised on the principle of universal coverage in
15 exchange for universal responsibility, will ensure that every resident
16 of the state receives the protection of long term care insurance bene-
17 fits in his or her old age.

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

20 S 1117-A. TASK FORCE ON UNIVERSAL LONG TERM CARE INSURANCE. (A)
21 CREATION. A TASK FORCE IS HEREBY CREATED TO DEVELOP A PLAN FOR THE
22 FINANCING AND PROVISIONS OF UNIVERSAL LONG TERM CARE INSURANCE FOR ALL
23 RESIDENTS OF THE STATE.

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

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

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

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

35 (4) DETERMINING HOW BENEFITS SHALL BE ALLOCATED;

36 (5) DEVELOPING CRITERIA FOR INSURER PARTICIPATION;

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

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

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

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

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

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

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

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

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

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

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

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

S 3. This act shall take effect immediately.