

2464

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring coverage for genetic testing in accident and health insurance policies

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

1 Section 1. Section 3216 of the insurance law is amended by adding a
2 new subsection (m) to read as follows:
3 (M) (1) (A) FOR PURPOSES OF THIS SUBSECTION: "PREDISPOSING GENETIC
4 CHARACTERISTIC" SHALL MEAN ANY INHERITED GENE OR CHROMOSOME, OR ALTER-
5 ATION THEREOF, AND DETERMINED BY A GENETIC TEST OR INFERRED FROM INFOR-
6 MATION DERIVED FROM AN INDIVIDUAL OR FAMILY MEMBER THAT IS SCIENTIF-
7 ICALLY OR MEDICALLY BELIEVED TO PREDISPOSE AN INDIVIDUAL OR THE
8 OFFSPRING OF THAT INDIVIDUAL TO A DISEASE OR DISABILITY, OR TO BE ASSO-
9 CIATED WITH A STATISTICALLY SIGNIFICANT INCREASED RISK OF THE DEVELOP-
10 MENT OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY; AND
11 (B) "GENETIC TESTING" SHALL MEAN A TEST FOR DETERMINING THE PRESENCE
12 OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN INDIVIDUAL,
13 INCLUDING TESTS OF NUCLEIC ACIDS SUCH AS DNA, RNA AND MITOCHONDRIAL DNA,
14 CHROMOSOMES OR PROTEINS IN ORDER TO IDENTIFY A PREDISPOSING GENETIC
15 CHARACTERISTIC.
16 (2) ON AND AFTER SEPTEMBER FIRST, TWO THOUSAND NINE EVERY POLICY
17 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES MEDICAL
18 COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S
19 OFFICE AND EVERY POLICY WHICH PROVIDES MAJOR MEDICAL OR SIMILAR COMPRE-
20 HENSIVE-TYPE COVERAGE SHALL PROVIDE COVERAGE FOR GENETIC TESTING, AND
21 ANY SUBSEQUENT TREATMENT RESULTING FROM THE RESULTS OF SUCH TEST, OF
22 PERSONS WHO, IN THE OPINION OF AN ATTENDING PHYSICIAN ARE PERSONS WITH A
23 SIGNIFICANT RISK OF CONTRACTING CANCER. FOR PURPOSES OF THIS SECTION, A
24 PERSON SHALL BE DEEMED TO HAVE A SIGNIFICANT RISK IF THERE IS A FAMILY
25 HISTORY OF CANCER, MORE THAN ONE GENERATION IN SUCH FAMILY HAS HAD

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

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1 CANCER, A FAMILY MEMBER HAS HAD MORE THAN ONE OCCURRENCE OF CANCER OR A
2 FAMILY MEMBER LESS THAN FORTY-FIVE YEARS OF AGE HAS BEEN DIAGNOSED WITH
3 CANCER. NOTHING IN THIS SUBSECTION SHALL BE DEEMED TO AUTHORIZE AN
4 INSURER TO UTILIZE OR RELEASE THE RESULTS OF SUCH TEST FOR ANY OTHER
5 PURPOSE. NO POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PURSU-
6 ANT TO THIS ARTICLE, SHALL BE DENIED OR CANCELLED ON THE BASIS OF A
7 PREDISPOSING GENETIC CHARACTERISTIC.

8 S 2. Subsection (l) of section 3221 of the insurance law is amended by
9 adding a new paragraph 11-b to read as follows:

10 (11-B) (A) (I) FOR PURPOSES OF THIS PARAGRAPH: "PREDISPOSING GENETIC
11 CHARACTERISTIC" SHALL MEAN ANY INHERITED GENE OR CHROMOSOME, OR ALTER-
12 ATION THEREOF, AND DETERMINED BY A GENETIC TEST OR INFERRED FROM INFOR-
13 MATION DERIVED FROM AN INDIVIDUAL OR FAMILY MEMBER THAT IS SCIENTIF-
14 ICALLY OR MEDICALLY BELIEVED TO PREDISPOSE AN INDIVIDUAL OR THE
15 OFFSPRING OF THAT INDIVIDUAL TO A DISEASE OR DISABILITY, OR TO BE ASSO-
16 CIATED WITH A STATISTICALLY SIGNIFICANT INCREASED RISK OF THE DEVELOP-
17 MENT OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY; AND

18 (II) "GENETIC TESTING" SHALL MEAN A TEST FOR DETERMINING THE PRESENCE
19 OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN INDIVIDUAL,
20 INCLUDING TESTS OF NUCLEIC ACIDS SUCH AS DNA, RNA AND MITOCHONDRIAL DNA,
21 CHROMOSOMES OR PROTEINS IN ORDER TO IDENTIFY A PREDISPOSING GENETIC
22 CHARACTERISTIC.

23 (B) ON AND AFTER SEPTEMBER FIRST, TWO THOUSAND NINE EVERY POLICY
24 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES MEDICAL
25 COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S
26 OFFICE AND MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL
27 PROVIDE COVERAGE FOR GENETIC TESTING, AND ANY SUBSEQUENT TREATMENT
28 RESULTING FROM THE RESULTS OF SUCH TEST, OF PERSONS WHO, IN THE OPINION
29 OF AN ATTENDING PHYSICIAN ARE PERSONS WITH A SIGNIFICANT RISK OF
30 CONTRACTING CANCER. FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE
31 DEEMED TO HAVE A SIGNIFICANT RISK IF THERE IS A FAMILY HISTORY OF
32 CANCER, MORE THAN ONE GENERATION IN SUCH FAMILY HAS HAD CANCER, A FAMILY
33 MEMBER HAS HAD MORE THAN ONE OCCURRENCE OF CANCER OR A FAMILY MEMBER
34 LESS THAN FORTY-FIVE YEARS OF AGE HAS BEEN DIAGNOSED WITH CANCER. NOTH-
35 ING IN THIS PARAGRAPH SHALL BE DEEMED TO AUTHORIZE AN INSURER TO UTILIZE
36 OR RELEASE THE RESULTS OF SUCH TEST FOR ANY OTHER PURPOSE. NO POLICY
37 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PURSUANT TO THIS ARTICLE,
38 SHALL BE DENIED OR CANCELLED ON THE BASIS OF A PREDISPOSING GENETIC
39 CHARACTERISTIC.

40 S 3. Section 4303 of the insurance law is amended by adding a new
41 subsection (ff) to read as follows:

42 (FF) (1) (A) FOR PURPOSES OF THIS SUBSECTION: "PREDISPOSING GENETIC
43 CHARACTERISTIC" SHALL MEAN ANY INHERITED GENE OR CHROMOSOME, OR ALTER-
44 ATION THEREOF, AND DETERMINED BY A GENETIC TEST OR INFERRED FROM INFOR-
45 MATION DERIVED FROM AN INDIVIDUAL OR FAMILY MEMBER THAT IS SCIENTIF-
46 ICALLY OR MEDICALLY BELIEVED TO PREDISPOSE AN INDIVIDUAL OR THE
47 OFFSPRING OF THAT INDIVIDUAL TO A DISEASE OR DISABILITY, OR TO BE ASSO-
48 CIATED WITH A STATISTICALLY SIGNIFICANT INCREASED RISK OF THE DEVELOP-
49 MENT OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY; AND

50 (B) "GENETIC TESTING" SHALL MEAN A TEST FOR DETERMINING THE PRESENCE
51 OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN INDIVIDUAL,
52 INCLUDING TESTS OF NUCLEIC ACIDS SUCH AS DNA, RNA AND MITOCHONDRIAL DNA,
53 CHROMOSOMES OR PROTEINS IN ORDER TO IDENTIFY A PREDISPOSING GENETIC
54 CHARACTERISTIC.

55 (2) ON AND AFTER SEPTEMBER FIRST, TWO THOUSAND NINE EVERY POLICY
56 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES MEDICAL

1 COVERAGE THAT INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S
2 OFFICE OR MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL
3 PROVIDE COVERAGE FOR GENETIC TESTING, AND ANY SUBSEQUENT TREATMENT
4 RESULTING FROM THE RESULTS OF SUCH TEST, OF PERSONS WHO, IN THE OPINION
5 OF AN ATTENDING PHYSICIAN ARE PERSONS WITH A SIGNIFICANT RISK OF
6 CONTRACTING CANCER. FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE
7 DEEMED TO HAVE A SIGNIFICANT RISK IF THERE IS A FAMILY HISTORY OF
8 CANCER, MORE THAN ONE GENERATION IN SUCH FAMILY HAS HAD CANCER, A FAMILY
9 MEMBER HAS HAD MORE THAN ONE OCCURRENCE OF CANCER OR A FAMILY MEMBER
10 LESS THAN FORTY-FIVE YEARS OF AGE HAS BEEN DIAGNOSED WITH CANCER. NOTH-
11 ING IN THIS SUBSECTION SHALL BE DEEMED TO AUTHORIZE AN INSURER TO
12 UTILIZE OR RELEASE THE RESULTS OF SUCH TEST FOR ANY OTHER PURPOSE. NO
13 POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PURSUANT TO THIS
14 ARTICLE, SHALL BE DENIED OR CANCELLED ON THE BASIS OF A PREDISPOSING
15 GENETIC CHARACTERISTIC.
16 S 4. This act shall take effect immediately.