

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

3127--A

2009-2010 Regular Sessions

I N S E N A T E

March 11, 2009

Introduced by Sens. DIAZ, DILAN, DUANE, HASSELL-THOMPSON, KRUGER, MONTGOMERY, PERKINS, SAMPSON, SAVINO, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- 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
19 insurance and must rely on Medicaid to pay for the costs of home health
20 or nursing home care.

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

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

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

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

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

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

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

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

33 (4) DETERMINING HOW BENEFITS SHALL BE ALLOCATED;

34 (5) DEVELOPING CRITERIA FOR INSURER PARTICIPATION;

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

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

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

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

54 (D) POWERS AND DUTIES. (1) THE TASK FORCE SHALL HAVE THE POWER TO
55 RECEIVE FROM ANY DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, AGENCY
56 OR OTHER INSTRUMENTALITY OF THE STATE OR OF ANY POLITICAL SUBDIVISION

1 THEREOF SUCH ASSISTANCE AND DATA AS WILL ENABLE IT PROPERLY TO CARRY OUT
2 ITS ACTIVITIES HEREUNDER.

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

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

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

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

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

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

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

39 S 3. This act shall take effect immediately.