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

S. 3726 A. 5858

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

March 2, 2011

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

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

AN ACT to amend the insurance law, in relation to genetic predisposition

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

Section 1. Subsection (a) of section 107 of the insurance law is amended by adding a new paragraph 54 to read as follows:

(54) "GENETIC PREDISPOSITION" SHALL MEAN THE PRESENCE OF A VARIATION IN THE COMPOSITION OF THE GENES OF AN INDIVIDUAL OR AN INDIVIDUAL'S FAMILY MEMBER WHICH IS SCIENTIFICALLY OR MEDICALLY IDENTIFIABLE AND WHICH IS DETERMINED TO BE ASSOCIATED WITH AN INCREASED STATISTICAL RISK OF BEING EXPRESSED AS EITHER A PHYSICAL OR MENTAL DISEASE OR DISABILITY IN THE INDIVIDUAL OR HAVING OFFSPRING WITH A GENETICALLY INFLUENCED DISEASE, BUT WHICH HAS NOT RESULTED IN ANY SYMPTOMS OF SUCH DISEASE OR DISORDER.

S 2. Subsection (a) of section 3231 of the insurance law, as amended by chapter 661 of the laws of 1997, is amended to read as follows:

(a) No individual health insurance policy and no group health insurance policy covering between two and fifty employees or members of the group exclusive of spouses and dependents, hereinafter referred to as a small group, providing hospital and/or medical benefits, including medicare supplemental insurance, shall be issued in this state unless such policy is community rated and, notwithstanding any other provisions of law, the underwriting of such policy involves no more than the imposition of a pre-existing condition limitation as permitted by this article. Any individual, and dependents of such individual, and any small group, including all employees or group members and dependents of employees or members, applying for individual health insurance coverage,

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

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including medicare supplemental coverage, or small group health insurance coverage, including medicare supplemental insurance, must be accepted at all times throughout the year for any hospital and/or medical coverage offered by the insurer to individuals or small groups in this state. Once accepted for coverage, an individual or small group cannot be terminated by the insurer due to claims experience. Termination of an individual or small group shall be based only on one or more of the reasons set forth in subsection (g) of section three thousand two hundred sixteen or subsection (p) of section three thousand two hundred twenty-one of this article. Group hospital and/or medical coverage, including medicare supplemental insurance, obtained through an out-of-state trust covering a group of fifty or fewer employees or participating persons who are residents of this state must be community rated regardless of the situs of delivery of the policy. Notwithstanding any other provisions of law, the underwriting of such policy may involve no more than the imposition of a pre-existing condition limitation as permitted by this article, and once accepted for coverage, an individual or small group cannot be terminated due to claims experience. Termination of an individual or small group shall be based only on one or more of the reasons set forth in subsection (p) of section three thousand two hundred twenty-one of this article. For the purposes of this section, "community rated" means a rating methodology in which the premium for all persons covered by a policy or contract form is the same based on the experience of the entire pool of risks covered by that policy or contract form without regard to age, sex, health status, INCLUDING ANY GENETIC PREDISPOSITION, or occupation.

S 3. The opening paragraph of subsection (b) of section 3232 of the insurance law, as amended by chapter 661 of the laws of 1997, is amended to read as follows:

No pre-existing condition provision shall exclude coverage for a period in excess of twelve months following the enrollment date of coverage for the covered person and may only relate to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received within the six-month period ending on the enrollment date. NO PRE-EXISTING CONDITION PROVISION SHALL EXCLUDE COVERAGE ON THE BASIS OF ANY GENETIC PREDISPOSITION. For purposes of this section "enrollment date" means the first day of coverage of the individual under the policy or, if earlier, the first day of the waiting period that must pass with respect to an individual before such individual is eligible to be covered for benefits. If an individual seeks and obtains coverage in the individual market, any period after the date the individual files a substantially complete application for coverage and before the first day of coverage is a waiting period. For purposes of this section genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to such information. No pre-existing condition limitation provision shall exclude coverage in the case of:

S 4. Subsection (a) of section 4317 of the insurance law, as amended by chapter 661 of the laws of 1997, is amended to read as follows:

(a) No individual health insurance contract and no group health insurance contract covering between two and fifty employees or members of the group exclusive of spouses and dependents, including contracts for which the premiums are paid by a remitting agent for a group, hereinafter referred to as a small group, providing hospital and/or medical benefits, including Medicare supplemental insurance, shall be issued in this

state unless such contract is community rated and, notwithstanding any other provisions of law, the underwriting of such contract involves no more than the imposition of a pre-existing condition limitation as permitted by this article. Any individual, and dependents of such individual, and any small group, including all employees or group members and dependents of employees or members, applying for individual or small group health insurance coverage must be accepted at all times throughout the year for any hospital and/or medical coverage, including Medicare supplemental insurance, offered by the corporation to individuals or small groups in this state. Once accepted for coverage, an individual or small group cannot be terminated by the insurer due to claims experience. Termination of coverage for individuals or small groups may be based only on one or more of the reasons set forth in subsection (c) of section four thousand three hundred four or subsection (j) of section four thousand three hundred five of this article. For the purposes of this section, "community rated" means a rating methodology in which the premium for all persons covered by a policy or contract form is the same, based on the experience of the entire pool of risks covered by that policy or contract form without regard to age, sex, health status, INCLUDING ANY GENETIC PREDISPOSITION, or occupation.

S 5. The opening paragraph of subsection (b) of section 4318 of the insurance law, as amended by chapter 661 of the laws of 1997, is amended to read as follows:

No pre-existing condition provision shall exclude coverage for a period in excess of twelve months following the enrollment date for the covered person and may only relate to a condition (whether physical or mental), regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received within the six month period ending on the enrollment date. For purposes of this section "enrollment date" means the first day of coverage of the individual under the contract or, if earlier, the first day of the waiting period that must pass with respect to an individual before the individual is eligible to be covered for benefits. If an individual seeks and obtains coverage in the individual market, any period after the date the individual files a substantially complete application for coverage and before the first day of coverage is a waiting period. For purposes of this section, genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to such information. NO PRE-EXISTING CONDITION PROVISION SHALL EXCLUDE COVERAGE ON THE BASIS OF ANY GENETIC PREDISPOSITION. No pre-existing condition provision shall exclude coverage in the case of:

S 6. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to all policies issued, renewed, altered or modified on or after such date.