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

10379

I N A S S E M B L Y

May 25, 2016

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

AN ACT to amend the public health law, the insurance law and the workers' compensation law, in relation to enacting the "living donor protection act of 2016"

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

Section 1. Short title. This act shall be known and may be cited as the "living donor protection act of 2016".

S 2. Section 4365 of the public health law is amended by adding a new subdivision 8 to read as follows:

8. THE COMMISSIONER, IN COOPERATION AND CONSULTATION WITH THE TRANSPLANT COUNCIL AND OTHER INTERESTED PARTIES, SHALL DEVELOP AND DISTRIBUTE, IN PRINTED FORM AND ON THE DEPARTMENT'S INTERNET WEBSITE, INFORMATIONAL MATERIALS RELATING TO THE LIVE DONATION OF ORGANS AND TISSUE, INCLUDING, BUT NOT LIMITED TO:

(A) THE BENEFITS OF LIVE ORGAN AND TISSUE DONATION;

(B) THE IMPACT OF THE DONATION OF ORGANS OR TISSUE ON THE DONORS' ACCESS TO INSURANCE AND ASSISTANCE;

(C) THE REDUCTION IN FEDERAL ADJUSTED GROSS INCOME, FOR STATE PERSONAL INCOME TAX PURPOSES, GRANTED TO LIVING ORGAN AND TISSUE DONORS; AND

(D) THE PROTECTIONS AND BENEFITS GRANTED PURSUANT TO THE LIVING DONOR PROTECTION ACT OF TWO THOUSAND SIXTEEN.

S 3. Section 1117 of the insurance law is amended by adding a new subsection (h) to read as follows:

(H) (1) NO ENTITY OFFERING OR PROVIDING BENEFITS FOR LONG TERM CARE PURSUANT TO THIS SECTION SHALL:

(A) DECLINE TO PROVIDE OR LIMIT SUCH BENEFITS DUE TO THE STATUS OF A COVERED PERSON AS A LIVING ORGAN OR TISSUE DONOR;

(B) PRECLUDE A COVERED PERSON FROM DONATING ALL OR PART OF AN ORGAN OR TISSUE AS A CONDITION OF RECEIVING OR CONTINUING TO RECEIVE SUCH BENEFITS;

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

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(C) CONSIDER THE STATUS OF A COVERED PERSON AS A LIVING ORGAN OR TISSUE DONOR IN THE DETERMINATION OF THE PREMIUM RATE FOR SUCH BENEFITS; OR

(D) OTHERWISE DISCRIMINATE IN THE OFFERING, ISSUANCE, CANCELLATION, AMOUNT OF COVERAGE OR ANY OTHER CONDITION OF COVERAGE FOR SUCH BENEFITS, BASED SOLELY AND WITHOUT ADDITIONAL ACTUARIAL RISKS, UPON A COVERED PERSON'S STATUS AS A LIVING ORGAN OR TISSUE DONOR.

(2) AS USED IN THIS SECTION, THE TERMS "ORGAN" AND "TISSUE" SHALL HAVE THE SAME MEANINGS AS ARE PROVIDED THEREFOR IN SECTION FORTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW.

S 4. Section 4224 of the insurance law is amended by adding a new subsection (g) to read as follows:

(G)(1) NO LIFE INSURANCE COMPANY, SAVINGS AND INSURANCE BANK, OR ACCIDENT AND HEALTH INSURER SHALL:

(A) DECLINE TO PROVIDE OR LIMIT COVERAGE OF AN INSURED UNDER ANY LIFE, ACCIDENT OR HEALTH INSURANCE POLICY DUE TO THE STATUS OF SUCH INSURED AS A LIVING ORGAN OR TISSUE DONOR;

(B) PRECLUDE AN INSURED FROM DONATING ALL OR PART OF AN ORGAN OR TISSUE AS A CONDITION OF RECEIVING OR CONTINUING TO RECEIVE LIFE, ACCIDENT OR HEALTH INSURANCE COVERAGE;

(C) CONSIDER THE STATUS OF AN INSURED AS A LIVING ORGAN OR TISSUE DONOR IN THE DETERMINATION OF THE PREMIUM RATE FOR LIFE, ACCIDENT OR HEALTH INSURANCE COVERAGE; OR

(D) OTHERWISE DISCRIMINATE IN THE OFFERING, ISSUANCE, CANCELLATION, AMOUNT OF COVERAGE OR ANY OTHER CONDITION OF COVERAGE, BASED SOLELY AND WITHOUT ADDITIONAL ACTUARIAL RISKS, UPON AN INSURED'S STATUS AS A LIVING ORGAN OR TISSUE DONOR.

(2) AS USED IN THIS SECTION, THE TERMS "ORGAN" AND "TISSUE" SHALL HAVE THE SAME MEANINGS AS ARE PROVIDED THEREFOR IN SECTION FORTY-THREE HUNDRED SIXTY OF THE PUBLIC HEALTH LAW.

S 5. Section 4313 of the insurance law is amended by adding a new subsection (c) to read as follows:

(C) EVERY SUCH CORPORATION SHALL BE SUBJECT TO THE PROVISIONS OF SUBSECTION (G) OF SECTION FOUR THOUSAND TWO HUNDRED TWENTY-FOUR OF THIS CHAPTER, RELATING TO LIVING ORGAN AND TISSUE DONORS.

S 6. Subdivision 18 of section 201 of the workers' compensation law, as added by section 2 of part SS of chapter 54 of the laws of 2016, is amended to read as follows:

18. "Serious health condition" means an illness, injury, impairment, or physical or mental condition, INCLUDING TRANSPLANTATION PREPARATION AND RECOVERY FROM SURGERY RELATED TO ORGAN OR TISSUE DONATION, that involves inpatient care in a hospital, hospice, or residential health care facility, continuing treatment or continuing supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective where the family member is under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

S 7. This act shall take effect on the ninetieth day after it shall have become a law.