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2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

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 (n) to read as follows:
3 (N) (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 FIFTEEN 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

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

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

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

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

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

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

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

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

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

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