

6203

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I N   A S S E M B L Y

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Introduced by M. of A. PAULIN, STECK, GOTTFRIED, PERSAUD, ROSENTHAL, SIMOTAS, WRIGHT, ZEBROWSKI, SCARBOROUGH -- Multi-Sponsored by -- M. of A. COOK, PERRY, TITONE, WALKER -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to mandating insurance companies to provide coverage for non-experimental infertility treatments

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

1     Section 1. Paragraph 13 of subsection (i) of section 3216 of the  
2     insurance law, as added by chapter 897 of the laws of 1990 and renum-  
3     bered by chapter 131 of the laws of 1992, is amended to read as follows:  
4     (13) (A) Every policy which provides coverage for hospital care shall  
5     not exclude coverage for hospital care for diagnosis and treatment of  
6     correctable medical conditions otherwise covered by the policy solely  
7     because the medical condition results in infertility[.]; PROVIDED HOWEV-  
8     ER THAT:  
9     (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,  
10    IN NO CASE SHALL SUCH COVERAGE EXCLUDE SURGICAL OR MEDICAL PROCEDURES  
11    PROVIDED AS PART OF SUCH HOSPITAL CARE WHICH WOULD CORRECT MALFORMATION,  
12    DISEASE OR DYSFUNCTION RESULTING IN INFERTILITY; AND  
13    (II) PROVIDED, FURTHER HOWEVER, THAT SUBJECT TO THE PROVISIONS OF  
14    SUBPARAGRAPH (C) OF THIS PARAGRAPH, IN NO CASE SHALL SUCH COVERAGE  
15    EXCLUDE DIAGNOSTIC TESTS AND PROCEDURES PROVIDED AS PART OF SUCH HOSPI-  
16    TAL CARE THAT ARE NECESSARY TO DETERMINE INFERTILITY OR THAT ARE NECES-  
17    SARY IN CONNECTION WITH ANY SURGICAL OR MEDICAL TREATMENTS OR  
18    PRESCRIPTION DRUG COVERAGE PROVIDED PURSUANT TO THIS PARAGRAPH, INCLUD-  
19    ING SUCH DIAGNOSTIC TESTS AND PROCEDURES AS HYSTEROSALPINGOGRAM, HYSTER-  
20    OSCOPY, ENDOMETRIAL BIOPSY, LAPAROSCOPY, SONO-HYSTEROGRAM, POST COITAL  
21    TESTS, TESTIS BIOPSY, SEMEN ANALYSIS, BLOOD TESTS, ULTRASOUND, OVULATION  
22    INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION, INTRACYTO-

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

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1 PLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE  
2 INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL  
3 OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM; AND

4 (III) PROVIDED, FURTHER HOWEVER, EVERY SUCH POLICY WHICH PROVIDES  
5 COVERAGE FOR PRESCRIPTION DRUGS SHALL INCLUDE, WITHIN SUCH COVERAGE,  
6 COVERAGE FOR PRESCRIPTION DRUGS APPROVED BY THE FEDERAL FOOD AND DRUG  
7 ADMINISTRATION FOR USE IN THE DIAGNOSIS AND TREATMENT OF INFERTILITY IN  
8 ACCORDANCE WITH SUBPARAGRAPH (C) OF THIS PARAGRAPH.

9 (B) Every policy which provides coverage for surgical and medical care  
10 shall not exclude coverage for surgical and medical care for diagnosis  
11 and treatment of correctable medical conditions otherwise covered by the  
12 policy solely because the medical condition results in infertility[.];  
13 PROVIDED, HOWEVER THAT:

14 (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,  
15 IN NO CASE SHALL SUCH COVERAGE EXCLUDE SURGICAL OR MEDICAL PROCEDURES  
16 PROVIDED AS PART OF SUCH HOSPITAL CARE WHICH WOULD CORRECT MALFORMATION,  
17 DISEASE OR DYSFUNCTION RESULTING IN INFERTILITY; AND

18 (II) PROVIDED, FURTHER HOWEVER, THAT SUBJECT TO THE PROVISIONS OF  
19 SUBPARAGRAPH (C) OF THIS PARAGRAPH, IN NO CASE SHALL SUCH COVERAGE  
20 EXCLUDE DIAGNOSTIC TESTS AND PROCEDURES PROVIDED AS PART OF SUCH HOSPI-  
21 TAL CARE THAT ARE NECESSARY TO DETERMINE INFERTILITY OR THAT ARE NECES-  
22 SARY IN CONNECTION WITH ANY SURGICAL OR MEDICAL TREATMENTS OR  
23 PRESCRIPTION DRUG COVERAGE PROVIDED PURSUANT TO THIS PARAGRAPH, INCLUD-  
24 ING SUCH DIAGNOSTIC TESTS AND PROCEDURES AS HYSTEROSALPINGOGRAM, HYSTER-  
25 OSCOPY, ENDOMETRIAL BIOPSY, LAPAROSCOPY, SONO-HYSTEROGRAM, POST COITAL  
26 TESTS, TESTIS BIOPSY, SEMEN ANALYSIS, BLOOD TESTS, ULTRASOUND, OVULATION  
27 INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION, INTRACYTO-  
28 PLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE  
29 INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL  
30 OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM; AND

31 (III) PROVIDED, FURTHER HOWEVER, EVERY SUCH POLICY WHICH PROVIDES  
32 COVERAGE FOR PRESCRIPTION DRUGS SHALL INCLUDE, WITHIN SUCH COVERAGE,  
33 COVERAGE FOR PRESCRIPTION DRUGS APPROVED BY THE FEDERAL FOOD AND DRUG  
34 ADMINISTRATION FOR USE IN THE DIAGNOSIS AND TREATMENT OF INFERTILITY IN  
35 ACCORDANCE WITH SUBPARAGRAPH (C) OF THIS PARAGRAPH.

36 (C) COVERAGE OF DIAGNOSTIC AND TREATMENT PROCEDURES, INCLUDING  
37 PRESCRIPTION DRUGS, USED IN THE DIAGNOSIS AND TREATMENT OF INFERTILITY  
38 AS REQUIRED BY SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH SHALL BE  
39 PROVIDED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBPARAGRAPH.

40 (I) COVERAGE SHALL BE PROVIDED FOR PERSONS WHOSE AGES RANGE FROM TWEN-  
41 TY-ONE THROUGH FORTY-FOUR YEARS OF AGE, PROVIDED THAT NOTHING IN THIS  
42 SUBPARAGRAPH SHALL PRECLUDE THE PROVISION OF COVERAGE TO PERSONS WHOSE  
43 AGE IS BELOW OR ABOVE SUCH RANGE.

44 (II) DIAGNOSIS AND TREATMENT OF INFERTILITY SHALL BE PRESCRIBED AS  
45 PART OF A PHYSICIAN'S OVERALL PLAN OF CARE AND CONSISTENT WITH THE  
46 GUIDELINES FOR COVERAGE AS REFERENCED IN THIS SUBPARAGRAPH.

47 (III) COVERAGE MAY BE SUBJECT TO CO-PAYMENTS, COINSURANCE AND DEDUCT-  
48 IBLES AS MAY BE DEEMED APPROPRIATE BY THE SUPERINTENDENT AND AS ARE  
49 CONSISTENT WITH THOSE ESTABLISHED FOR OTHER BENEFITS WITHIN A GIVEN  
50 POLICY.

51 (IV) COVERAGE SHALL BE LIMITED TO THOSE INDIVIDUALS WHO HAVE BEEN  
52 PREVIOUSLY COVERED UNDER THE POLICY FOR A PERIOD OF NOT LESS THAN TWELVE  
53 MONTHS, PROVIDED THAT FOR THE PURPOSES OF THIS SUBPARAGRAPH "PERIOD OF  
54 NOT LESS THAN TWELVE MONTHS" SHALL BE DETERMINED BY CALCULATING SUCH  
55 TIME FROM EITHER THE DATE THE INSURED WAS FIRST COVERED UNDER THE EXIST-

1 ING POLICY OR FROM THE DATE THE INSURED WAS FIRST COVERED BY A PREVIOUS-  
2 LY IN-FORCE CONVERTED POLICY, WHICHEVER IS EARLIER.

3 (V) COVERAGE SHALL NOT BE REQUIRED TO INCLUDE THE DIAGNOSIS AND TREAT-  
4 MENT OF INFERTILITY IN CONNECTION WITH:

5 (I) THE REVERSAL OF ELECTIVE STERILIZATIONS;

6 (II) SEX CHANGE PROCEDURES;

7 (III) CLONING; OR

8 (IV) MEDICAL OR SURGICAL SERVICES OR PROCEDURES THAT ARE DEEMED TO BE  
9 EXPERIMENTAL IN ACCORDANCE WITH CLINICAL GUIDELINES REFERENCED IN CLAUSE  
10 (VI) OF THIS SUBPARAGRAPH.

11 (VI) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF  
12 HEALTH, SHALL PROMULGATE REGULATIONS WHICH SHALL STIPULATE THE GUIDE-  
13 LINES AND STANDARDS WHICH SHALL BE USED IN CARRYING OUT THE PROVISIONS  
14 OF THIS SUBPARAGRAPH, WHICH SHALL INCLUDE:

15 (I) THE DETERMINATION OF "INFERTILITY" IN ACCORDANCE WITH THE STAND-  
16 ARDS AND GUIDELINES ESTABLISHED AND ADOPTED BY THE AMERICAN COLLEGE OF  
17 OBSTETRICIANS AND GYNECOLOGISTS AND THE AMERICAN SOCIETY FOR REPRODUC-  
18 TIVE MEDICINE;

19 (II) THE IDENTIFICATION OF EXPERIMENTAL PROCEDURES AND TREATMENTS NOT  
20 COVERED FOR THE DIAGNOSIS AND TREATMENT OF INFERTILITY DETERMINED IN  
21 ACCORDANCE WITH THE STANDARDS AND GUIDELINES ESTABLISHED AND ADOPTED BY  
22 THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS AND THE AMERICAN  
23 SOCIETY FOR REPRODUCTIVE MEDICINE;

24 (III) THE IDENTIFICATION OF THE REQUIRED TRAINING, EXPERIENCE AND  
25 OTHER STANDARDS FOR HEALTH CARE PROVIDERS FOR THE PROVISION OF PROCE-  
26 DURES AND TREATMENTS FOR THE DIAGNOSIS AND TREATMENT OF INFERTILITY  
27 DETERMINED IN ACCORDANCE WITH THE STANDARDS AND GUIDELINES ESTABLISHED  
28 AND ADOPTED BY THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS  
29 AND THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE; AND

30 (IV) THE DETERMINATION OF APPROPRIATE MEDICAL CANDIDATES BY THE TREAT-  
31 ING PHYSICIAN IN ACCORDANCE WITH THE STANDARDS AND GUIDELINES ESTAB-  
32 LISHED AND ADOPTED BY THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOL-  
33 OGISTS AND/OR THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE.

34 (VII) A POLICY PROVIDING COVERAGE UNDER THIS PARAGRAPH MAY HAVE THE  
35 FOLLOWING REQUIREMENTS AND LIMITATIONS:

36 (I) LIMIT COVERAGE FOR IN-VITRO FERTILIZATION, GAMETE INTRA-FALLOPIAN  
37 TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER AND LOW TUBAL OVUM TRANSFER TO  
38 THOSE INDIVIDUALS WHO HAVE BEEN UNABLE TO CONCEIVE OR PRODUCE CONCEPTION  
39 OR SUSTAIN A SUCCESSFUL PREGNANCY THROUGH LESS EXPENSIVE AND MEDICALLY  
40 VIABLE INFERTILITY TREATMENT OR PROCEDURES COVERED UNDER SUCH A POLICY;

41 (II) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO DENY THE COVER-  
42 AGE REQUIRED BY THIS SECTION TO ANY INDIVIDUAL WHO FORGOES A PARTICULAR  
43 INFERTILITY TREATMENT OR PROCEDURE IF THE INDIVIDUAL'S PHYSICIAN DETER-  
44 MINES THAT SUCH A TREATMENT OR PROCEDURE IS LIKELY TO BE UNSUCCESSFUL;

45 (III) LIMIT COVERAGE TO A LIFETIME CAP OF ONE HUNDRED THOUSAND DOLLARS  
46 FOR OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZA-  
47 TION, INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO  
48 TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANS-  
49 FER, LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM;

50 (IV) REQUIRE DISCLOSURE BY THE INDIVIDUAL SEEKING SUCH COVERAGE TO  
51 SUCH INDIVIDUAL'S EXISTING HEALTH INSURANCE CARRIER OF ANY PREVIOUS  
52 INFERTILITY TREATMENT OR PROCEDURES FOR WHICH SUCH INDIVIDUAL RECEIVED  
53 COVERAGE UNDER A DIFFERENT HEALTH INSURANCE POLICY. SUCH DISCLOSURE  
54 SHALL BE MADE ON A FORM AND IN THE MANNER PRESCRIBED BY THE COMMISSIONER  
55 OF THE DEPARTMENT OF FINANCIAL SERVICES.

1 S 2. Subparagraphs (A), (B) and (C) of paragraph 6 of subsection (k)  
2 of section 3221 of the insurance law, as amended by section 1 of part K  
3 of chapter 82 of the laws of 2002, are amended to read as follows:

4 (A) Every group policy issued or delivered in this state which  
5 provides coverage for hospital care shall not exclude coverage for  
6 hospital care for diagnosis and treatment of correctable medical condi-  
7 tions [otherwise covered by the policy] solely because the medical  
8 condition results in infertility; provided, however that:

9 (i) subject to the provisions of subparagraph (C) of this paragraph,  
10 in no case shall such coverage exclude surgical or medical procedures  
11 provided as part of such hospital care which would correct malformation,  
12 disease or dysfunction resulting in infertility; and

13 (ii) provided, further however, that subject to the provisions of  
14 subparagraph (C) of this paragraph, in no case shall such coverage  
15 exclude diagnostic tests and procedures provided as part of such hospi-  
16 tal care that are necessary to determine infertility or that are neces-  
17 sary in connection with any surgical or medical treatments or  
18 prescription drug coverage provided pursuant to this paragraph, includ-  
19 ing such diagnostic tests and procedures as hysterosalpingogram, hyster-  
20 oscopy, endometrial biopsy, laparoscopy, sono-hysteroqram, post coital  
21 tests, testis biopsy, semen analysis, blood tests [and], ultrasound,  
22 OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION,  
23 INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANS-  
24 FER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER,  
25 LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM; and

26 (iii) provided, further however, every such policy which provides  
27 coverage for prescription drugs shall include, within such coverage,  
28 coverage for prescription drugs approved by the federal Food and Drug  
29 Administration for use in the diagnosis and treatment of infertility in  
30 accordance with subparagraph (C) of this paragraph.

31 (B) Every group policy issued or delivered in this state which  
32 provides coverage for surgical and medical care shall not exclude cover-  
33 age for surgical and medical care for diagnosis and treatment of correc-  
34 table medical conditions [otherwise covered by the policy] solely  
35 because the medical condition results in infertility; provided, however  
36 that:

37 (i) subject to the provisions of subparagraph (C) of this paragraph,  
38 in no case shall such coverage exclude surgical or medical procedures  
39 which would correct malformation, disease or dysfunction resulting in  
40 infertility; and

41 (ii) provided, further however, that subject to the provisions of  
42 subparagraph (C) of this paragraph, in no case shall such coverage  
43 exclude diagnostic tests and procedures that are necessary to determine  
44 infertility or that are necessary in connection with any surgical or  
45 medical treatments or prescription drug coverage provided pursuant to  
46 this paragraph, including such diagnostic tests and procedures as  
47 hysterosalpingogram, hysteroscopy, endometrial biopsy, laparoscopy,  
48 sono-hysteroqram, post coital tests, testis biopsy, semen analysis,  
49 blood tests [and], ultrasound, OVULATION INDUCTION, INTRAUTERINE INSEMI-  
50 NATION, IN-VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION,  
51 UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER,  
52 ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL OVUM TRANSFER, DONOR EGGS,  
53 AND DONOR SPERM; and

54 (iii) provided, further however, every such policy which provides  
55 coverage for prescription drugs shall include, within such coverage,  
56 coverage for prescription drugs approved by the federal Food and Drug

Administration for use in the diagnosis and treatment of infertility in accordance with subparagraph (C) of this paragraph.

(C) Coverage of diagnostic and treatment procedures, including prescription drugs, used in the diagnosis and treatment of infertility as required by subparagraphs (A) and (B) of this paragraph shall be provided in accordance with the provisions of this subparagraph.

(i) Coverage shall be provided for persons whose ages range from twenty-one through forty-four years, provided that nothing herein shall preclude the provision of coverage to persons whose age is below or above such range.

(ii) Diagnosis and treatment of infertility shall be prescribed as part of a physician's overall plan of care and consistent with the guidelines for coverage as referenced in this subparagraph.

(iii) Coverage may be subject to co-payments, coinsurance and deductibles as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy.

(iv) Coverage shall be limited to those individuals who have been previously covered under the policy for a period of not less than twelve months, provided that for the purposes of this subparagraph "period of not less than twelve months" shall be determined by calculating such time from either the date the insured was first covered under the existing policy or from the date the insured was first covered by a previously in-force converted policy, whichever is earlier.

(v) Coverage shall not be required to include the diagnosis and treatment of infertility in connection with: (I) [in vitro fertilization, gamete intrafallopian tube transfers or zygote intrafallopian tube transfers; (II)] the reversal of elective sterilizations; [(III)] (II) sex change procedures; [(IV)] (III) cloning; or [(V)] (IV) medical or surgical services or procedures that are deemed to be experimental in accordance with clinical guidelines referenced in clause (vi) of this subparagraph.

(vi) The superintendent, in consultation with the commissioner of health, shall promulgate regulations which shall stipulate the guidelines and standards which shall be used in carrying out the provisions of this subparagraph, which shall include:

(I) The determination of "infertility" in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

(II) The identification of experimental procedures and treatments not covered for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine;

(III) The identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility determined in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and the American Society for Reproductive Medicine; and

(IV) The determination of appropriate medical candidates by the treating physician in accordance with the standards and guidelines established and adopted by the American College of Obstetricians and Gynecologists and/or the American Society for Reproductive Medicine.

(VII) A POLICY PROVIDING COVERAGE UNDER THIS PARAGRAPH MAY HAVE THE FOLLOWING REQUIREMENTS AND LIMITATIONS:

(I) LIMIT COVERAGE FOR IN-VITRO FERTILIZATION, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER AND LOW TUBAL OVUM TRANSFER TO THOSE INDIVIDUALS WHO HAVE BEEN UNABLE TO CONCEIVE OR PRODUCE CONCEPTION OR SUSTAIN A SUCCESSFUL PREGNANCY THROUGH LESS EXPENSIVE AND MEDICALLY VIABLE INFERTILITY TREATMENT OR PROCEDURES COVERED UNDER SUCH A POLICY;

(II) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO DENY THE COVERAGE REQUIRED BY THIS SECTION TO ANY INDIVIDUAL WHO FORGOES A PARTICULAR INFERTILITY TREATMENT OR PROCEDURE IF THE INDIVIDUAL'S PHYSICIAN DETERMINES THAT SUCH A TREATMENT OR PROCEDURE IS LIKELY TO BE UNSUCCESSFUL;

(III) LIMIT COVERAGE TO A LIFETIME CAP OF ONE HUNDRED THOUSAND DOLLARS FOR OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM;

(IV) REQUIRE DISCLOSURE BY THE INDIVIDUAL SEEKING SUCH COVERAGE TO SUCH INDIVIDUAL'S EXISTING HEALTH INSURANCE CARRIER OF ANY PREVIOUS INFERTILITY TREATMENT OR PROCEDURES FOR WHICH SUCH INDIVIDUAL RECEIVED COVERAGE UNDER A DIFFERENT HEALTH INSURANCE POLICY. SUCH DISCLOSURE SHALL BE MADE ON A FORM AND IN THE MANNER PRESCRIBED BY THE COMMISSIONER OF THE DEPARTMENT OF FINANCIAL SERVICES.

S 3. Paragraphs 1, 2 and 3 of subsection (s) of section 4303 of the insurance law, as amended by section 2 of part K of chapter 82 of the laws of 2002, are amended to read as follows:

(1) A hospital service corporation or health service corporation which provides coverage for hospital care shall not exclude coverage for hospital care for diagnosis and treatment of correctable medical conditions [otherwise covered by the policy] solely because the medical condition results in infertility; provided, however that:

(A) subject to the provisions of paragraph three of this subsection, in no case shall such coverage exclude surgical or medical procedures provided as part of such hospital care which would correct malformation, disease or dysfunction resulting in infertility; and

(B) provided, further however, that subject to the provisions of paragraph three of this subsection, in no case shall such coverage exclude diagnostic tests and procedures provided as part of such hospital care that are necessary to determine infertility or that are necessary in connection with any surgical or medical treatments or prescription drug coverage provided pursuant to this subsection, including such diagnostic tests and procedures as hysterosalpingogram, hysteroscopy, endometrial biopsy, laparoscopy, sono-hysterogram, post coital tests, testis biopsy, semen analysis, blood tests [and], ultrasound, OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM; and

(C) provided, further however, every such policy which provides coverage for prescription drugs shall include, within such coverage, coverage for prescription drugs approved by the federal Food and Drug Administration for use in the diagnosis and treatment of infertility in accordance with paragraph three of this subsection.

(2) A medical expense indemnity or health service corporation which provides coverage for surgical and medical care shall not exclude coverage for surgical and medical care for diagnosis and treatment of correc-

table medical conditions otherwise covered by the policy solely because the medical condition results in infertility; provided, however that:

(A) subject to the provisions of paragraph three of this subsection, in no case shall such coverage exclude surgical or medical procedures which would correct malformation, disease or dysfunction resulting in infertility; and

(B) provided, further however, that subject to the provisions of paragraph three of this subsection, in no case shall such coverage exclude diagnostic tests and procedures that are necessary to determine infertility or that are necessary in connection with any surgical or medical treatments or prescription drug coverage provided pursuant to this subsection, including such diagnostic tests and procedures as hysterosalpingogram, hysteroscopy, endometrial biopsy, laparoscopy, sono-hysterosogram, post coital tests, testis biopsy, semen analysis, blood tests [and], ultrasound, OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZATION, INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER, LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM; and

(C) provided, further however, every such policy which provides coverage for prescription drugs shall include, within such coverage, coverage for prescription drugs approved by the federal Food and Drug Administration for use in the diagnosis and treatment of infertility in accordance with paragraph three of this subsection.

(3) Coverage of diagnostic and treatment procedures, including prescription drugs used in the diagnosis and treatment of infertility as required by paragraphs one and two of this subsection shall be provided in accordance with this paragraph.

(A) Coverage shall be provided for persons whose ages range from twenty-one through forty-four years, provided that nothing herein shall preclude the provision of coverage to persons whose age is below or above such range.

(B) Diagnosis and treatment of infertility shall be prescribed as part of a physician's overall plan of care and consistent with the guidelines for coverage as referenced in this paragraph.

(C) Coverage may be subject to co-payments, coinsurance and deductibles as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy.

(D) Coverage shall be limited to those individuals who have been previously covered under the policy for a period of not less than twelve months, provided that for the purposes of this paragraph "period of not less than twelve months" shall be determined by calculating such time from either the date the insured was first covered under the existing policy or from the date the insured was first covered by a previously in-force converted policy, whichever is earlier.

(E) Coverage shall not be required to include the diagnosis and treatment of infertility in connection with: (i) [in vitro fertilization, gamete intrafallopian tube transfers or zygote intrafallopian tube transfers; (ii)] the reversal of elective sterilizations; [(iii)] (II) sex change procedures; [(iv)] (III) cloning; or [(v)] (IV) medical or surgical services or procedures that are deemed to be experimental in accordance with clinical guidelines referenced in subparagraph (F) of this paragraph.

(F) The superintendent, in consultation with the commissioner of health, shall promulgate regulations which shall stipulate the guide-

1 lines and standards which shall be used in carrying out the provisions  
2 of this paragraph, which shall include:

3 (i) The determination of "infertility" in accordance with the stand-  
4 ards and guidelines established and adopted by the American College of  
5 Obstetricians and Gynecologists and the American Society for Reproduc-  
6 tive Medicine;

7 (ii) The identification of experimental procedures and treatments not  
8 covered for the diagnosis and treatment of infertility determined in  
9 accordance with the standards and guidelines established and adopted by  
10 the American College of Obstetricians and Gynecologists and the American  
11 Society for Reproductive Medicine;

12 (iii) The identification of the required training, experience and  
13 other standards for health care providers for the provision of proce-  
14 dures and treatments for the diagnosis and treatment of infertility  
15 determined in accordance with the standards and guidelines established  
16 and adopted by the American College of Obstetricians and Gynecologists  
17 and the American Society for Reproductive Medicine; and

18 (iv) The determination of appropriate medical candidates by the treat-  
19 ing physician in accordance with the standards and guidelines estab-  
20 lished and adopted by the American College of Obstetricians and Gynecol-  
21 ogists and/or the American Society for Reproductive Medicine.

22 (G) A POLICY PROVIDING COVERAGE UNDER THIS SUBSECTION MAY HAVE THE  
23 FOLLOWING REQUIREMENTS AND LIMITATIONS:

24 (I) LIMIT COVERAGE FOR IN-VITRO FERTILIZATION, GAMETE INTRA-FALLOPIAN  
25 TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANSFER AND LOW TUBAL OVUM TRANSFER TO  
26 THOSE INDIVIDUALS WHO HAVE BEEN UNABLE TO CONCEIVE OR PRODUCE CONCEPTION  
27 OR SUSTAIN A SUCCESSFUL PREGNANCY THROUGH LESS EXPENSIVE AND MEDICALLY  
28 VIABLE INFERTILITY TREATMENT OR PROCEDURES COVERED UNDER SUCH A POLICY.

29 (II) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO DENY THE COVER-  
30 AGE REQUIRED BY THIS SECTION TO ANY INDIVIDUAL WHO FORGOES A PARTICULAR  
31 INFERTILITY TREATMENT OR PROCEDURE IF THE INDIVIDUAL'S PHYSICIAN DETER-  
32 MINES THAT SUCH A TREATMENT OR PROCEDURE IS LIKELY TO BE UNSUCCESSFUL;

33 (III) LIMIT COVERAGE TO A LIFETIME CAP OF ONE HUNDRED THOUSAND DOLLARS  
34 FOR OVULATION INDUCTION, INTRAUTERINE INSEMINATION, IN-VITRO FERTILIZA-  
35 TION, INTRACYTOPLASMIC SPERM INJECTION, UTERINE EMBRYO LAVAGE, EMBRYO  
36 TRANSFER, GAMETE INTRA-FALLOPIAN TRANSFER, ZYGOTE INTRA-FALLOPIAN TRANS-  
37 FER, LOW TUBAL OVUM TRANSFER, DONOR EGGS, AND DONOR SPERM;

38 (IV) REQUIRE DISCLOSURE BY THE INDIVIDUAL SEEKING SUCH COVERAGE TO  
39 SUCH INDIVIDUAL'S EXISTING HEALTH INSURANCE CARRIER OF ANY PREVIOUS  
40 INFERTILITY TREATMENT OR PROCEDURES FOR WHICH SUCH INDIVIDUAL RECEIVED  
41 COVERAGE UNDER A DIFFERENT HEALTH INSURANCE POLICY. SUCH DISCLOSURE  
42 SHALL BE MADE ON A FORM AND IN THE MANNER PRESCRIBED BY THE COMMISSIONER  
43 OF THE DEPARTMENT OF FINANCIAL SERVICES.

44 S 4. This act shall take effect immediately.