STATE OF NEW YORK

297--C

2017-2018 Regular Sessions

IN ASSEMBLY

January 5, 2017

Introduced by M. of A. GUNTHER, ORTIZ, TITONE, SIMON, GALEF, TAYLOR, CASTORINA -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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 2018"

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 2018".

§ 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 eighteen.

§ 3. The insurance law is amended by adding a new section 2616 to read as follows:

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

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§ 2616. Discrimination because of status as a living organ or tissue donor. (a) No insurer or entity authorized to do the kinds of business specified in paragraph one or three of subsection (a) of section one thousand one hundred thirteen of this chapter shall decline to provide or limit coverage of an insured under any life or accident and health insurance policy or otherwise discriminate in the premium rating, offering, issuance, cancellation, amount of coverage or any other condition, based solely upon the status of an insured as a living organ or tissue donor and without additional actuarial risks.

(b) No insurer or entity authorized to do the kinds of business specified in paragraph one or three of subsection (a) of section one thousand one hundred thirteen of this chapter shall preclude an insured from donating all or part of an organ or tissue as a condition or receiving or continuing to receive life or accident and health insurance coverage.

(c) 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.

§ 4. 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 section two thousand six hundred sixteen of this chapter, relating to living organ and tissue donors.

§ 5. 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.

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