

# STATE OF NEW YORK

297--B

2017-2018 Regular Sessions

## IN ASSEMBLY

January 5, 2017

Introduced by M. of A. GUNTHER, ORTIZ, TITONE, SIMON, GALEF -- 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

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:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "living donor protection act of 2018".

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

5 8. The commissioner, in cooperation and consultation with the trans-  
6 plant council and other interested parties, shall develop and distrib-  
7 ute, in printed form and on the department's internet website, informa-  
8 tional materials relating to the live donation of organs and tissue,  
9 including, but not limited to:

10 (a) the benefits of live organ and tissue donation;

11 (b) the impact of the donation of organs or tissue on the donors'  
12 access to insurance and assistance;

13 (c) the reduction in federal adjusted gross income, for state personal  
14 income tax purposes, granted to living organ and tissue donors; and

15 (d) the protections and benefits granted pursuant to the living donor  
16 protection act of two thousand eighteen.

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

19 (h) (1) No entity offering or providing benefits for long term care  
20 pursuant to this section shall:

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

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1 (A) decline to provide or limit such benefits due to the status of a  
2 covered person as a living organ or tissue donor;

3 (B) preclude a covered person from donating all or part of an organ or  
4 tissue as a condition of receiving or continuing to receive such bene-  
5 fits;

6 (C) consider the status of a covered person as a living organ or  
7 tissue donor in the determination of the premium rate for such benefits;  
8 or

9 (D) otherwise discriminate in the offering, issuance, cancellation,  
10 amount of coverage or any other condition of coverage for such benefits,  
11 based solely and without additional actuarial risks, upon a covered  
12 person's status as a living organ or tissue donor.

13 (2) As used in this section, the terms "organ" and "tissue" shall have  
14 the same meanings as are provided therefor in section forty-three  
15 hundred sixty of the public health law.

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

18 (g)(1) No life insurance company, savings and insurance bank, or acci-  
19 dent and health insurer shall:

20 (A) decline to provide or limit coverage of an insured under any life,  
21 accident or health insurance policy due to the status of such insured as  
22 a living organ or tissue donor;

23 (B) preclude an insured from donating all or part of an organ or  
24 tissue as a condition of receiving or continuing to receive life, acci-  
25 dent or health insurance coverage;

26 (C) consider the status of an insured as a living organ or tissue  
27 donor in the determination of the premium rate for life, accident or  
28 health insurance coverage; or

29 (D) otherwise discriminate in the offering, issuance, cancellation,  
30 amount of coverage or any other condition of coverage, based solely and  
31 without additional actuarial risks, upon an insured's status as a living  
32 organ or tissue donor.

33 (2) As used in this section, the terms "organ" and "tissue" shall have  
34 the same meanings as are provided therefor in section forty-three  
35 hundred sixty of the public health law.

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

38 (c) Every such corporation shall be subject to the provisions of  
39 subsection (g) of section four thousand two hundred twenty-four of this  
40 chapter, relating to living organ and tissue donors.

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

44 18. "Serious health condition" means an illness, injury, impairment,  
45 or physical or mental condition, including transplantation preparation  
46 and recovery from surgery related to organ or tissue donation, that  
47 involves inpatient care in a hospital, hospice, or residential health  
48 care facility, continuing treatment or continuing supervision by a  
49 health care provider. Continuing supervision by a health care provider  
50 includes a period of incapacity which is permanent or long term due to a  
51 condition for which treatment may not be effective where the family  
52 member is under the continuing supervision of, but need not be receiving  
53 active treatment by, a health care provider.

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