

# STATE OF NEW YORK

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7002

2021-2022 Regular Sessions

## IN SENATE

May 21, 2021

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Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring that provision be made for pregnancy termination procedures in every individual or group policy or contract which provides coverage or indemnity for hospital, surgical or medical care and which offers maternity care coverage

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that New York  
2 has a long history of advancing gender equity and, as part of that  
3 effort, reproductive health.  
4 The legislature additionally finds that access to the full range of  
5 health benefits, as guaranteed under the laws of this state, provides  
6 all New Yorkers with the opportunity to lead healthier and more fulfill-  
7 ing lives.  
8 The legislature also finds that neither a person's income level nor  
9 the type of health insurance they utilize should prevent them from  
10 having access to a full range of reproductive health care, including  
11 abortion care.  
12 The legislature additionally finds that restrictions and barriers to  
13 health coverage for reproductive health care have a disproportionate  
14 impact on low-income people, people of color, immigrants, and young  
15 people and that these individuals are often already disadvantaged in  
16 their access to resources, information, and services.  
17 The legislature also finds that the exclusion of coverage for repro-  
18 ductive health care services for women and those with the capacity to  
19 become pregnant is discrimination on the basis of sex and pregnancy.  
20 The legislature finds that abortion care is part of pregnancy-related  
21 care, and failure to provide coverage for the full range of pregnancy-  
22 related care interferes with an individual's personal health care deci-

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

LBD11093-01-1

1 sion making, their overall health and well-being and with their consti-  
2 tutionally protected right to safe and legal abortion care.

3 § 2. Subsection (i) of section 3216 of the insurance law is amended by  
4 adding a new paragraph 36 to read as follows:

5 (36)(A) Every policy which provides hospital, surgical, or medical  
6 coverage and which offers maternity care coverage pursuant to paragraph  
7 ten of this subsection shall also provide coverage for abortion services  
8 for an enrollee.

9 (B) Coverage for abortion shall not be subject to annual deductibles  
10 or coinsurance, including co-payments, unless the policy is a high  
11 deductible health plan as defined in section 223(c)(2) of the internal  
12 revenue code of 1986, in which case coverage for abortion may be subject  
13 to the plan's annual deductible.

14 (C) If the superintendent concludes that enforcement of this paragraph  
15 may adversely affect the allocation of federal funds to the state, the  
16 superintendent may grant an exemption to the requirements of this para-  
17 graph, but only to the minimum extent necessary to ensure the continued  
18 receipt of federal funds.

19 § 3. Subsection (k) of section 3221 of the insurance law is amended by  
20 adding a new paragraph 22 to read as follows:

21 (22)(A) Every policy which provides hospital, surgical, or medical  
22 coverage and which offers maternity care coverage pursuant to paragraph  
23 five of this subsection shall also provide coverage for abortion  
24 services for an enrollee.

25 (B) Coverage for abortion shall not be subject to annual deductibles  
26 or coinsurance, including co-payments, unless the policy is a high  
27 deductible health plan as defined in section 223(c)(2) of the internal  
28 revenue code of 1986, in which case coverage for abortion may be subject  
29 to the plan's annual deductible.

30 (C) Notwithstanding any other provision, a group policy that provides  
31 hospital, surgical, or medical expense coverage delivered or issued for  
32 delivery in this state to a religious employer, as defined in item one  
33 of subparagraph (E) of paragraph sixteen of subsection (l) of this  
34 section, may exclude coverage for abortion only if the insurer:

35 (i) Obtains an annual certification from the group policyholder that  
36 the policyholder is a religious employer and that the religious employer  
37 requests a policy without coverage for abortion;

38 (ii) Issues a rider to each certificateholder at no premium to be  
39 charged to the certificateholder or religious employer for the rider,  
40 that provides coverage for abortion subject to the same rules as would  
41 have been applied to the same category of treatment in the policy issued  
42 to the religious employer. The rider shall clearly and conspicuously  
43 specify that the religious employer does not administer abortion bene-  
44 fits, but that the insurer is issuing a rider for coverage of abortion,  
45 and shall provide the insurer's contact information for questions; and

46 (iii) Provides notice of the issuance of the policy and rider to the  
47 superintendent in a form and manner acceptable to the superintendent.

48 (D) If the superintendent concludes that enforcement of this paragraph  
49 may adversely affect the allocation of federal funds to the state, the  
50 superintendent may grant an exemption to the requirements, but only to  
51 the minimum extent necessary to ensure the continued receipt of federal  
52 funds.

53 § 4. Section 4303 of the insurance law is amended by adding a new  
54 subsection (ss) to read as follows:

55 (ss)(1) Every policy which provides hospital, surgical, or medical  
56 coverage and which offers maternity care coverage pursuant to subsection

1 (c) of this section shall also provide coverage for abortion services  
2 for an enrollee.

3 (2) Coverage for abortion shall not be subject to annual deductibles  
4 or coinsurance, including co-payments, unless the policy is a high  
5 deductible health plan as defined in section 223(c)(2) of the internal  
6 revenue code of 1986, in which case coverage for abortion may be subject  
7 to the plan's annual deductible.

8 (3) Notwithstanding any other provision, a group policy that provides  
9 hospital, surgical, or medical expense coverage delivered or issued for  
10 delivery in this state to a religious employer, as defined in paragraph  
11 five of subsection (cc) of this section, may exclude coverage for  
12 abortion only if the insurer:

13 (A) Obtains an annual certification from the group policyholder that  
14 the policyholder is a religious employer and that the religious employer  
15 requests a policy without coverage for abortion;

16 (B) Issues a rider to each certificateholder at no premium to be  
17 charged to the certificateholder or religious employer for the rider,  
18 that provides coverage for abortion subject to the same rules as would  
19 have been applied to the same category of treatment in the policy issued  
20 to the religious employer. The rider shall clearly and conspicuously  
21 specify that the religious employer does not administer abortion bene-  
22 fits, but that the insurer is issuing a rider for coverage of abortion,  
23 and shall provide the insurer's contact information for questions; and

24 (C) Provides notice of the issuance of the policy and rider to the  
25 superintendent in a form and manner acceptable to the superintendent.

26 (4) If the superintendent concludes that enforcement of this  
27 subsection may adversely affect the allocation of federal funds to the  
28 state, the superintendent may grant an exemption to the requirements,  
29 but only to the minimum extent necessary to ensure the continued receipt  
30 of federal funds.

31 § 5. Severability. If any provision of this act, or any application of  
32 any provision of this act, is held to be invalid, or to violate or be  
33 inconsistent with any federal law or regulation, that shall not affect  
34 the validity or effectiveness of any other provision of this act, or of  
35 any other application of any provision of this act, which can be given  
36 effect without that provision or application; and to that end, the  
37 provisions and applications of this act are severable.

38 § 6. This act shall take effect on the first of January next succeed-  
39 ing the date on which it shall have become a law and shall apply to all  
40 policies and contracts issued, renewed, modified, altered, or amended on  
41 or after such date.