

ASSEMBLY, No. 2757

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1997

By Assemblywoman ALLEN and Assemblyman BAGGER

1 AN ACT to prevent discrimination against victims of domestic violence
2 in certain insurance contracts.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Domestic violence" and "victim of domestic violence" shall have
9 the same meaning as in section 3 of P.L.1991, c.261 (C.2C:25-19).

10 "Domestic violence-related condition" means a medical condition
11 which arises in whole or in part from one or more acts of domestic
12 violence.

13 "Health benefit plan" means a program, contract, or plan issued by
14 an insurer that provides health care services or expense benefits.

15 "Insurer" means (1) any corporation, association, partnership,
16 reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit
17 society or other person engaged in the business of insurance pursuant
18 to Subtitle 3 of Title 17 of the Revised Statutes (C.17:17-1 et seq.),
19 or Subtitle 3 of Title 17B of the New Jersey Statutes (C.17B:17-1 et
20 seq.); (2) any medical service corporation operating pursuant to
21 P.L.1940, c.74 (C.17:48A-1 et seq.); (3) any hospital service
22 corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.);
23 (4) any health service corporation operating pursuant to P.L.1985,
24 c.236 (C.17:48E-1 et seq.); (5) any dental service corporation
25 operating pursuant to P.L.1968, c.305 (C.17:48C-1 et seq.); (6) any
26 dental plan organization operating pursuant to P.L.1979, c.478
27 (C.17:48D-1 et seq.); (7) any risk retention group or purchasing
28 group operating pursuant to the "Liability Risk Retention Act of
29 1986," 15 U.S.C. s.3901 et seq; and (8) any health maintenance
30 organization operating pursuant to P.L.1973, c.337 (C.26:2J-1 et
31 seq.).

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33 2. No insurer shall discriminate by engaging in the practices set
34 forth in subsections a. through d. of this section against an insured or
35 prospective insured on the basis that the insured or prospective
36 insured, or any person employed by the insured or prospective insured,
37 or with whom the insured or prospective insured has a relationship,

- 1 is or may be a victim of domestic violence. No insurer shall:
- 2 a. deny, refuse to issue, renew or reissue, cancel or otherwise
3 terminate an insurance policy or health benefit plan;
- 4 b. restrict, exclude or limit an insurance policy or health benefit
5 plan coverage for losses, or deny a claim incurred by an insured as a
6 result of domestic violence;
- 7 c. add a premium differential to any insurance policy or health
8 benefit plan; or
- 9 d. terminate health coverage under a health benefit plan for a
10 victim of domestic violence because the health benefit plan was issued
11 in the name of the perpetrator of domestic violence and the perpetrator
12 of domestic violence has divorced, separated from, or lost custody of
13 the victim of domestic violence; or where the perpetrator of domestic
14 violence has terminated coverage under a health benefit plan
15 voluntarily or involuntarily, and the victim of domestic violence does
16 not qualify for continuation of health benefits coverage under the
17 "Consolidated Omnibus Budget Reconciliation Act of 1985,"
18 (COBRA) Pub.L. 93-406 (29 U.S.C. § 1161 et seq.). Nothing in this
19 subsection shall prohibit the insurer from requiring the victim of
20 domestic violence to pay the full premium for coverage under the
21 health benefit plan or requiring the victim to reside or work within the
22 insurer's service area, provided that these requirements apply to all
23 insureds. The insurer may terminate coverage after the continuation
24 coverage required by this subsection has been in force for 18 months
25 if it offers conversion to an equivalent plan. The continuation
26 coverage required by this subsection shall be satisfied by COBRA
27 coverage provided to a victim of domestic violence and shall not be in
28 addition to coverage provided under COBRA.
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- 30 3. No insurer shall use, disclose or transfer the applicant's or
31 insured's name, address, telephone number, information regarding the
32 applicant's or insured's status as a victim of domestic violence or
33 domestic violence-related condition, or the prospective insured's or
34 insured's status as a family member, employer, associate or person in
35 a relationship with a victim of domestic violence, for a purpose
36 unrelated to the direct provision of health care services, except when
37 required by the Commissioner of Banking and Insurance or a court of
38 competent jurisdiction. Nothing in this section shall limit or preclude
39 a victim of domestic violence from
- 40 a. obtaining the victim's medical records from an insurer; or
- 41 b. providing evidence of or information regarding domestic violence
42 to an insurer for the sole purpose of (1) facilitating treatment of a
43 domestic violence-related condition or (2) demonstrating that a
44 medical condition is related to domestic violence.
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- 46 4. Insurers shall develop written policies and procedures to protect

1 the safety and privacy of victims of domestic violence and to
2 implement the provisions of this act. These policies and procedures
3 shall be followed by the insurer and insurance producers when taking
4 an application, investigating a claim, pursuing subrogation or taking
5 any other action relating to a policy or claim involving a victim of
6 domestic violence.

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8 5. a. The Commissioner of Banking and Insurance shall investigate
9 an insurer to determine whether the insurer has violated any provision
10 of this act. A person aggrieved by a violation of this act may file a
11 complaint with the commissioner.

12 b. A person who believes to be adversely affected by a violation of
13 this act may maintain a private cause of action against the insurer in a
14 State or federal court of competent jurisdiction seeking the penalties
15 provided in this section, as well as any additional remedies available by
16 law.

17 c. The commissioner may:

18 (1) order an insurer that has violated this act to pay a monetary
19 penalty of \$5,000.00 for each violation of this act; or

20 (2) obtain equitable relief in a State or federal court of competent
21 jurisdiction against an insurer, as well as the costs of suit, attorney's
22 fees and expert witness fees.

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24 6. The Commissioner of Banking and Insurance may adopt rules
25 and regulations pursuant to the "Administrative Procedure Act,"
26 P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the
27 purposes of this act.

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29 7. This act shall take effect immediately.

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STATEMENT

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34 This bill prohibits discrimination against insureds or prospective
35 insureds on the basis of domestic violence. Insurers would be
36 forbidden from refusing to issue policies, restricting or limiting policy
37 benefits, or adding premium differentials to insurance policies because
38 the insured or prospective insured, or any person employed by the
39 insured or prospective insured, or with whom the insured or
40 prospective insured has a relationship, is or may be a victim of
41 domestic violence. This bill applies to property/casualty insurers and
42 life and health insurers, who are required to develop written policies
43 and procedures to safeguard the privacy and safety of domestic
44 violence victims. Insurers and insurance producers must follow these
45 policies and procedures.

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3 Prohibits insurers from discriminating against insureds on the basis of

4 domestic violence.