



NEW YORK STATE SENATOR

Eric T. Schneiderman

Sens. Schneiderman and Breslin Introduce Groundbreaking Legislation To Protect Patients From Insurance Industry Abuses

ERIC T. SCHNEIDERMAN November 6, 2009

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Ian's Law Bans Egregious Insurance Practices That Deny Care To Protect Profits

NEW YORK – Joined by patients and insurance reform advocates, Senator Eric T. Schneiderman (D-Manhattan/Bronx) announced the introduction of major legislation today that protects patients from egregious insurance industry practices. “Ian’s Law” (S.6263) makes it illegal for insurers to drop entire classes of insurance as a pretext to deny coverage to individual policyholders; requires insurance companies to get prior approval from the Insurance Department before discontinuing a class of insurance; and expands the minimum length of time — to 18 months — that an insurance company must ensure that policyholders with total disabilities receive continued coverage after losing their policy due to the statewide cancellation of an entire class of policies.

The bill is named for Ian Pearl, a 37-year-old man with muscular dystrophy who lost his insurance when Guardian, acting under current New York law, terminated the entire class of policies in the State that covered Ian and others. Mr. Pearl became ventilator-dependent in

1991 and relies on a skilled nursing benefit under his insurance policy to receive care that has kept him alive since he suffered respiratory arrest.

The Pearl family charged in court that Guardian terminated the entire class of policies in New York in order to get around the fact that New York law prohibits an insurance company from dropping the policy of an individual simply because he or she needs care. An internal document from the insurer, released as a result of a legal challenge, showed that company officials justified dropping the entire line of policies statewide in order to get rid of “the few dogs”, like Ian Pearl, who were filing claims. Guardian, which denies any wrongdoing, has since settled with the Pearl family and restored Ian’s coverage.

“I applaud New York State Senators Eric T. Schneiderman and Neil Breslin for introducing a bill intended to prevent insurance companies from discontinuing the sale or renewal of a particular class of group or blanket health insurance as a pretext to canceling the coverage of any policyholder or insured due to his or her claims experience or any health status-related factor, said Ian Pearl. “I am honored that this bill is named after me. In accepting this rare honor, I pledge to continue my efforts to fight for health care reform that protects the most vulnerable Americans.”

“The practice of terminating an insurance policy line as a pretext to dropping coverage for individuals who need it most is not only absolutely disgraceful – it’s a matter of life and death,” said Sen. Schneiderman, Chair of the Senate Codes Committee and lead sponsor of the bill. “This bill holds the insurance industry accountable and protects patients like Ian – and other individuals who have paid for insurance coverage – from being thrown off when they get sick. These people are not dogs, they are the struggling families behind the paperwork, and we have a moral obligation to protect them from abusive insurance industry

practices.”

“I am pleased that Guardian has committed to continuing to provide Ian Pearl with coverage for the remainder of his life. Dropping an individual policyholder due to their claims experience or medical history is already illegal; therefore the same should be true for dropping an entire group of people based on the history of any particular individual,” said Sen. Neil Breslin, Chair of the Senate Insurance Committee and co-sponsor of the bill. “I am proud to join Sen. Schneiderman in this major step toward real insurance reform in New York.”

Ian’s Law requires insurers to prove they are not dropping a line of coverage as a pretext for dumping an individual policyholder. That means:

- Insurers must get permission from the Insurance Department to drop a line of coverage – and notify impacted policyholders when they apply.
- Insurers must show the following to the Insurance Department: the claims and premium rates for each policy issued in the class, the historical profits and losses for the line of policies, and any other information requested by the Department. The Department must look at this information to determine if the dropping of a class of policies statewide is merely a pretext for dropping coverage of a particular individual.
- Policyholders are given an opportunity to comment on the impact of the dropped policies, and the Insurance Department must take these comments into account.

Ian’s Law also empowers consumers to challenge insurance companies in court if they discontinue lines of coverage in violation of the new law. In addition, policyholders with

severe disabilities will receive at least 18 months of coverage if they lose their policies due to the cancellation of a class of policies. (Current regulations require such care for only 12 months.)

"For those of us who have witnessed Ian's lifelong advocacy on behalf of people with disabilities and special needs, it is exceptionally gratifying that Ian's story may help remedy an inequity that would otherwise have gone unnoticed. It is therefore fitting that Ian's Law, while inspired by my family's personal insurance crisis, has the unique potential to benefit so many other Americans in the future," said Susan Pearl, Ian's mother.

Also at today's press conference was Cindy Kief, the mother of 11-year-old twin sons, Jacob and Jesse, who are multiply disabled with permanent brain damage. For years, the Kief family has been subject to insurance industry abuses similar to the Pearls, including policy termination.

"Just like the Pearls, we have been subject to a sudden, unforeseeable change in policy with no warning, no time to fight back, no alternative solutions," said Cindy Kief. "While we speak on behalf of our sons, we have knowledge of so many families in New York State and around the country who live this life. We are a silent minority, faced with children who, just two decades ago, would have been institutionalized and forgotten. It is time to hold the insurance companies accountable and provide the coverage they have been handsomely paid to provide. This is not an abstract problem, these are real families, real children and adults whose lives have value."

Ian's Law is supported by a broad range of insurance reform, medical and consumer advocates.

David Hannan, MD, President of the Medical Society of the State of New York, stated: "Patients and their physicians in seeking to assure that needed health care will be covered must deal everyday with a whole host of barriers which are imposed by health insurers. New Yorkers who have paid for health insurance coverage must be able to count on that coverage when they or their family members become ill or are injured. Empowering the Superintendent of Insurance to approve or deny requests by an insurer to terminate coverage for a particular class of group or blanket policy of health insurance offered in the small or large group market will better assure that such decisions are made for appropriate reasons. We applaud Senators Breslin and Schneiderman for advancing this legislation."

"Ian's Law addresses the outrageous practice of some companies that cancel entire lines of health insurance just to avoid paying claims of individuals like Ian Pearl who need expensive care," said Pam Bennett, director of New York City Citizen Action. "In an email, a Guardian executive called individuals with high-cost care 'dogs.' To us, they're not dogs, but human beings entitled to coverage and legal protections. We need the Legislature to pass Ian's Law, proposed by Senator Schneiderman, and the Congress to pass national health care reform legislation this year."

"Consumers Union commends Sen. Schneiderman and Sen. Breslin for introducing Ian's Law," said Charles Bell, Programs Director for Consumers Union, publisher of Consumer Reports. "When health insurance companies precipitously drop a whole line of coverage, the results can be devastating for consumers. This critically important bill would give New York Insurance Department more authority to scrutinize such decisions, and ensure that companies are not dropping an entire line of coverage just to get rid of a few high-cost individuals. "