



NEW YORK STATE SENATOR

Neil D. Breslin

## NY Senate Adopts Groundbreaking Legislation To Protect Patients From Insurance Industry Abuses

NEIL D. BRESLIN June 18, 2010

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**(Albany NY)**– The Senate Democratic Majority recently approved groundbreaking legislation sponsored by Senator Eric T. Schneiderman (D-Manhattan/Bronx) and Senator Neil Breslin (D-Delmar) that protects patients from egregious insurance industry practices. “Ian’s Law” (S.6263-B) makes it illegal for insurers to drop entire classes of insurance as a pretext to deny coverage to individual policyholders. The measure also requires insurance companies to notify the Insurance Department before discontinuing a class of insurance, allows policyholders to submit evidence to the Insurance Department and trigger an investigation, creates a private right of action which allows policyholders to sue insurance companies who do not follow the new law, 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.

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 notify impacted policyholders of their rights and remedies under the new law, and certify to the Insurance Department that they have complied with the law when they indicate that they wish to discontinue a line of policies.
- Policyholders may submit evidence that their insurance company is seeking to discontinue the line of policies in violation of the new law to the Insurance Department for up to 90 days after receiving notice from their insurance company.
- Upon receiving evidence from policyholders, the Insurance Department may review the following information: 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 may look at and consider this information to determine if the dropping of a class of policies statewide is merely a pretext for dropping coverage of a particular individual.

The bill is named for Ian Pearl, a 37-year-old man with muscular dystrophy who lost his insurance when his carrier, Guardian, terminated the entire class of policies 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. 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 and thank the New York State Senate and Senators Eric T. Schneiderman and

Neil Breslin for protecting patients and acting to prevent insurance companies from discontinuing a particular class of health insurance as a pretext to canceling the coverage of any policyholder due to his or her claims or any health status-related factor,” said Ian Pearl. “I am honored they named this bill after me and I urge the State Assembly to approve this measure and Governor Paterson to sign it. 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.”

“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 want to thank my colleagues in the Senate for joining me and Senator Schneiderman in this major step toward real insurance reform in New York.”

Ian’s Law is the first law of its kind in the nation. It goes further than the health care reform act recently passed by the U.S. Congress in providing important protections for health insurance policyholders.

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.)

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

Leah McCormack, MD, President of the Medical Society of the State of New York, stated: "Patients and their physicians 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 review 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 Schneiderman and Breslin for advancing this legislation."

Susan Pearl, Ian's mother, added "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. We urge the Assembly to pass Ian's Law so New York may lead the nation in protecting insurance policyholders and those who depend on the coverage."

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