



NEW YORK STATE SENATOR

Eric T. Schneiderman

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ERIC T. SCHNEIDERMAN August 18, 2010

| ISSUE: **INSURANCE**

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After State Insurance Department Refused To Address Loophole Allowing Guardian To Deny Ian Pearl Health Care, Eric Schneiderman Fought To Pass Historic Reforms

NEW YORK CITY – Governor Paterson today signed into law groundbreaking legislation sponsored by Senator Eric T. Schneiderman (D-Manhattan/Bronx) that protects patients from an egregious insurance industry practice of denying care to businesses and individuals who have been paying for insurance.

“Ian’s Law”:

- Ensures that insurers cannot drop entire classes of insurance statewide as a pretext to deny coverage to individual policyholders who have been paying premiums;
- Requires insurance companies to notify the Insurance Department before discontinuing a class of insurance, and allows policyholders to submit evidence of “pretext” 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.

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.

The Pearl family charged in court that Guardian terminated the entire class of policies in New York in order to get around the New York law that 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.

Ian’s Law is the first law of its kind in the nation. It goes further than the health care reform act recently signed by the President in providing important protections for health insurance policyholders. Indeed, while the federal law closed one loophole insurance companies used to deny their own customers care — a cancellation of an individual’s policy based on a pre-

existing condition — Ian's Law will close another and equally unfair loophole — canceling a class of policies state-wide as a pretext to target a single individual who got sick.

"I applaud and thank 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 law 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."

"Because of Ian Pearl and his courageous family, New York state is now putting patients before insurance company profits," said Senator Eric Schneiderman, lead sponsor of the bill. "The practice of terminating an insurance policy line as a pretext to dropping coverage for individuals who need it most is not only unconscionable – it's a matter of life and death. Ian's Law holds the insurance industry accountable and protects patients like Ian – and other families who have played by the rules – from being thrown off when they get sick. This is a major breakthrough for patients' rights."

"With this legislation, New York consumers have one more weapon in their arsenal of legal defenses against unscrupulous insurance practices," Governor Paterson said. "Inspired by Ian's courageous fight, this law fortifies consumer protections in the event a health insurer terminates coverage without offering a replacement. Namely, this law will prevent insurance companies from discontinuing an entire class of policies as a pretext to avoid paying one person's medical claims."

"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 Senator 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 closes the loophole that has endangered the lives of so many vulnerable New Yorkers like Mr. Ian Pearl, and allows our state to protect these individuals from the abuses of insurance companies. Contrived money-making schemes must not dictate who receives medical coverage," said Assemblymember Daniel O'Donnell, the Assembly sponsor of Ian's Law.

"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 are so pleased that New York is leading the nation in protecting insurance policyholders and those who depend on the coverage," said Susan Pearl, Ian's mother.

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

"Consumers Union commends Sen. Schneiderman and Sen. Breslin for leading the fight to pass 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 law will 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."