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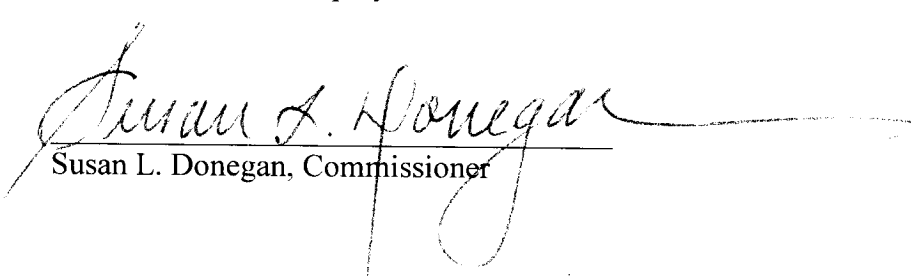
Insurance Bulletin No. 177

Guidance Regarding Prohibited Discrimination in Health Insurance Coverage
Under Act 35 of 2013

In 2013, the General Assembly passed Act 35 to forbid certain discrimination in Vermont insurance coverage. In pertinent part: “To the extent permitted under federal law, health insurance coverage provided to Vermont residents who work for an employer domiciled outside of Vermont shall not distinguish between parties to a civil union, married same-sex couples, and married opposite-sex couples.” 8 V.S.A. 4063b(b). Act 35 has an effective date of July 1, 2013.

Under both federal and state law, it is state law that determines relations pursuant to marriage and civil unions. See *United States v. Windsor*, — S. Ct. —, 2013 WL 3196928 (June 26, 2013). Vermont defines marriage and civil unions under 15 V.S.A. § 8 and 15 V.S.A. § 1201. By law, the sex of persons in a marriage is irrelevant: “Marriage is the legally recognized union of two people.” 15 V.S.A. § 8.

Accordingly, as of July 1, 2013, any entity that provides health insurance coverage to a Vermont resident who works for an employer domiciled outside of Vermont cannot distinguish a marriage or civil union in a way that conflicts with Vermont law. As with all other general Vermont laws of broad applicability, this pertains to all health insurance coverage, including, but not limited to, self-funded insurance provided by an employer pursuant to the Employee Retirement Income Security Act of 1974, or ERISA.


Susan L. Donegan, Commissioner