

**Regulation 2000-01-IH Civil Unions**

Table of Contents

Section 1. Purpose  
Section 2. Authority  
Section 3. Applicability and Scope  
Section 4. Definitions  
Section 5. Interpretation of Department Regulations  
Section 6. Coverage Standards for Civil Unions  
Section 7. Form Filings  
Section 8. Severability  
Section 9. Effective Date

Section 1 Purpose

This regulation is promulgated to prohibit insurers from unfairly discriminating between married couples and parties to a civil union regarding the offering of insurance policies and contracts. In accordance with this Regulation, insurers shall make insurance policies and contracts that are currently available to married couples, spouses, and their families available to civil union couples, parties to a civil union, and their families.

Section 2 Authority

This regulation is issued pursuant to the authority of the Commissioner to promulgate regulations. 8 V.S.A. §75. The regulation is based on the legislative prohibition on unfair discrimination against the parties to a civil union. See 8 V.S.A. §4724(7)(E).

Section 3 Applicability and Scope

(a) This regulation applies to any person transacting the business of insurance in the state of Vermont, as defined under 8 V.S.A. §3368(b).

(b) Except as expressly provided herein, this regulation applies to all insurance policies and contracts solicited, delivered, issued, or renewed in the state of Vermont.

(c) This regulation shall not be construed to affect the ability of a fraternal benefit society to determine the admission of its members as provided under 8 V.S.A. §4464 or to determine the scope of beneficiaries in accordance with 8 V.S.A. §4477(a). Further, this regulation shall not apply to a fraternal benefit society that has been established and is operating for charitable and educational purposes and which is operated, supervised or controlled by or in connection with a religious organization where compliance with this regulation would violate the society's free exercise of religion, as guaranteed by the First Amendment to the Constitution of the United States or by Chapter I, Article 3rd, of the Constitution of the State of Vermont.

Section 4 Definitions

- (a) "Civil Union" shall mean a civil union established pursuant to 15 V.S.A. chapter 23 and 18 V.S.A. chapter 106.
- (b) "Commissioner" shall mean the Commissioner of the Vermont Department of Banking, Insurance, Securities and Health Care Administration.
- (c) "Department" shall mean the Vermont Department of Banking, Insurance, Securities and Health Care Administration.
- (d) "Insurance policy" or "Insurance contract" shall mean any contract of insurance, indemnity, medical, dental, optometric, or hospital service, suretyship, or annuity, issued, proposed for issuance, or intended for issuance, by any insurer.
- (e) "Insurer" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, hospital or medical service corporation, health maintenance organization, managed care organization, mental health review agent and any other legal entity engaged in the business of insurance, including agents, brokers, appraisers, and adjusters. For the purposes of this regulation, insurer shall also include third party administrators and other agents and contractors of persons engaged in the business of insurance in Vermont.
- (f) "Party to a civil union" shall mean a person who has established a civil union.

Section 5 Interpretation of Department Regulations

Pursuant to 15 V.S.A. §1204, parties to a civil union and civil union couples shall be included in any definition or use of the terms "marriage," "spouse," "family," "immediate family," "dependent," "next of kin," and any other terms that denote a marital or spousal relationship, as those terms are used throughout the Department's regulations.

Section 6 Coverage Standards for Civil Unions

- (a) Insurance contracts and policies offered by insurers to married couples, spouses, and their families shall also be offered to civil union couples, parties to a civil union, and their families. Except as specifically provided herein, all insurance contracts and policies shall provide coverage to parties to a civil union and their families that is equivalent to coverage provided to married persons and their families. At the request of a civil union party, insurers shall endorse or amend any such policy or contract to include policy or contract language which is consistent with this regulation. As provided in Section 7(c) all policies and contracts shall be amended or endorsed between January 1, 2001 and December 31, 2001.
- (b) Effective January 1, 2001, any party to a civil union wishing to change his or her insurance contract or policy into a joint contract or policy shall be entitled to make that change to

the extent a married person would be allowed to change his or her policy, without incurring any penalty as the result of such change. Any such change may be subject to standard and routine underwriting of the party to be added to the policy or contract.

(c) Insurers shall not use the fact that an applicant or an insured is a party to a civil union as a means to include sexual orientation in the underwriting process or in the determination of insurability. Use of sexual orientation as an underwriting standard or practice or as an eligibility requirement constitutes an unfair trade practice that is prohibited under 8 V.S.A. §4724(7).

(d) Nothing in this regulation shall be construed to prohibit insurers from setting rates for insurance in accordance with reasonable classifications based on relevant actuarial data or actual cost experience. However, preferential rates or discounts offered to married persons that are not based on relevant actuarial data or actual cost experience, such as rates and discounts which reflect administrative cost savings for the insurer or are used as a marketing tool by insurers, shall also be made equally available to the parties to a civil union.

(e) The existence of a civil union shall automatically create for each party to a civil union an insurable interest in the other party. Both parties in a civil union shall also automatically have an insurable interest in any child for whom one party in a civil union becomes the natural parent, as that term is used in 15 V.S.A. §1204(f), during the term of a civil union.

(f) An insurer shall not require any party to a civil union to produce proof of the existence of a valid civil union if that insurer does not also require married persons to produce proof of the existence of a valid marriage. Insurers may require an applicant to produce proof of the existence of a valid civil union only where the insurer would also require proof of the existence of a valid marriage under the same circumstances.

(g) Insurers are not required to provide a benefit available to a married person to a party to a civil union, or amend an insurance policy or contract of a party to a civil union when application of federal law prohibits such action or limits the benefit to married persons. Where an insurer declines to provide a benefit to, or amend an insurance contract of, a party to a civil union because of the application of federal law, the insurer shall notify the party to a civil union of the declination and the specific reason for the declination.

#### Section 7. Form Filings

(a) All forms filed on or after the effective date of this regulation shall comply with this regulation.

(b) All forms filed prior to the effective date of this regulation but not approved before January 1, 2001 shall, if approved, receive approval conditioned upon the inclusion of an appropriate endorsement that brings the policy or contract into compliance with this regulation.

(c) All forms currently on file and approved by the Department shall be amended or endorsed to bring the policy or contract into compliance with this regulation. Such amendment or endorsement shall be included in all policies and contracts issued or renewed on or after January 1,

2001. All contracts and policies that do not contain a renewal date shall be amended or endorsed to bring the policy or contract into compliance with this regulation on the first anniversary of the policy effective date following January 1, 2001. For example, a life insurance policy issued on March 1, 1965 or March 1, 1975 shall be amended or endorsed on or before March 1, 2001. For good cause shown, the Commissioner may extend these deadlines but not beyond December 31, 2001.

Section 8. Severability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 9. Effective Date

This regulation shall be effective January 1, 2001.