

**Vermont . . .**Department of Banking, Insurance,  
Securities and Health Care Administration**Vermont Dept. of Banking, Insurance, Securities and Health Care Administration  
Division of Health Care Administration****HCA Bulletin 110**

December 21, 2000

**Implementation of Vermont Act 91 with Respect to Health Insurance:  
Civil Unions Mandatory Endorsement and Related Issues for Insurers**

Effective January 1, 2001, all policies and contracts must be in compliance with Act 91 of the 2000 Legislative Session, Vermont's new "Act Relating to Civil Unions." An unofficial version of the full text of the Act is available at the web site of the Vermont State Legislature, at <http://www.leg.state.vt.us/docs/2000/acts/ACT091.HTM>. A review of the language of the Act should be helpful as insurers encounter specific issues and questions.

Section 17 of the Act requires that insurance contracts and policies offered to married couples, spouses and families also be made available to civil union couples, parties to the civil union and their families. Section 18 of the Act requires that health insurers offer dependent coverage to parties to a civil union and their families. Dependent coverage is defined as family coverage or two-person coverage. Act 91 requires that the Commissioner adopt rules necessary to carry out the purposes of the law. On December 6, 2000, the Department adopted regulation No. 2000-01-IH relating to civil unions that will take effect January 1, 2001. A copy of the regulation is available at the Department's website at <http://bishca.state.vt.us>.

This new law authorizes the Commissioner to adopt, by Order, standards and a process to bring currently approved forms into compliance with Vermont law. The Commissioner will issue an Order (a draft of the Order is attached), effective January 1, 2001 requiring all health insurers to adopt the Vermont Mandatory Civil Unions Endorsement or file, for approval, an alternative endorsement that complies with Act 91, for all policies, contracts, certificates, riders and endorsements subject to regulation by the Commissioner. Insurers are responsible for ensuring that the endorsement attached to policies and contracts has been approved by the Department and is compatible with those forms.

Unless it is otherwise determined that specific forms need to be amended and filed for approval, insurers adopting the Vermont Mandatory Civil Unions Endorsement (the endorsement attached is the final version adopted by the Department) need not make form changes or submit a form filing specific to Act 91. If insurers choose to make specific form changes, these must be filed for approval.

An approved endorsement must be attached to all policies, contracts, certificates, riders and endorsements offered, issued, renewed or delivered in the state of Vermont. Insurers are allowed to include these endorsements with their renewals in 2001. For all contracts and policies that do not contain a renewal date, the contract or policy must be endorsed on the first anniversary of the policy effective date that occurs in 2001. For example, a contract or policy with an effective date of March 1, 1998 must be endorsed by March 1, 2001. If an insured requests that their policy be

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form approved by the Department. Effective January 1, 2001, all health insurance policies and contracts shall be interpreted to provide equivalent benefits for married couples and civil union couples, and their families, whether or not they have been physically endorsed or amended at the time a claim is made.

The insurance provisions of Act 91 apply to insurers. Under federal law, the Employee Retirement Income Security Act of 1974 (ERISA), private employers determine eligibility for enrollment in fully insured or self funded employee welfare benefit plans. Because of ERISA, Act 91 does not state requirements pertaining to a private employer's enrollment of a party to a civil union in an ERISA employee welfare benefit plan. However, governmental employers (not federal government) are not subject to ERISA and, therefore, are required to provide health benefits to the dependents of a party to a civil union if the public employer provides health benefits to the dependents of married persons.

Private employers should be directed to consult their own counsel for specific advice in establishing eligibility requirements for their ERISA health benefit plans. Insurers are not obligated to provide group coverage to a dependent of a party to a civil union if the private employer has declined to enroll that dependent even where the private employer provides benefits to the dependents of married persons.

The Department, in cooperation with the Vermont Department of Taxes, is preparing a "Frequently Asked Questions" publication for parties to civil unions.

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Elizabeth R. Costle, Commissioner



# Vermont . . .

Consumer Complaints/Assistance only:  
Insurance: 1-800-964-1784  
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See other division numbers below.

Department of Banking, Insurance,  
Securities and Health Care Administration

## IN RE: AMENDMENT OR ENDORSEMENT OF INSURANCE POLICIES AND CONTRACTS TO COMPLY WITH VERMONT LAW REGARDING CIVIL UNIONS

### ORDER

**WHEREAS**, Act 91 of the 2000 Legislative Session, Vermont’s “Act Relating to Civil Unions” was enacted into law on April 26, 2000; and

**WHEREAS**, the provisions of Act 91 relating to insurance take effect January 1, 2001; and

**WHEREAS**, Section 17 of Act 91 prohibits insurers from engaging in unfair discrimination between married couples and civil union couples and requires that the Commissioner promulgate rules to ensure that insurance policies and contracts offered to married couples, spouses, and their families also be made available to parties to a civil union and their families; and

**WHEREAS**, Section 18 of Act 91 requires that health insurers provide dependent coverage to parties to a civil union that is equivalent to that provided to married insureds and that individual and group health insurance policies that provide coverage to a spouse or family member of an insured also provide the equivalent coverage for a party to a civil union; and

**WHEREAS**, the Commissioner has adopted Regulation 2000-01-IH, effective January 1, 2001, which addresses unfair discrimination by insurers against parties to a civil union; and

**WHEREAS**, the Commissioner, pursuant to Section 17 of Act 91, may adopt by Order standards and a process, which may differ from current Vermont law, for filing and approval of forms, to bring the forms currently on file and approved by the Department into compliance with Vermont law; and

**NOW THEREFORE**, the Commissioner issues this Order to implement Act 91 and Regulation 2000-01-IH.

1. Effective January 1, 2001, all insurance policies and contracts solicited, delivered, issued, or renewed in the state of Vermont shall be in compliance with Act 91 and Regulation 2000-01-IH. Such policies and contracts, with the exception of annuities, shall be considered amended through operation of law to provide equivalent benefits for married persons and parties to a civil union, and their families.
2. All insurers shall adopt the Vermont Mandatory Civil Unions Endorsement applicable to property and casualty insurance, life insurance, or health insurance for use with those policies and contracts (attached hereto) or file, for approval, an alternative endorsement that complies with Act 91 and Regulation 2000-01-IH. Unless it is otherwise determined that specific forms need to be amended and filed for approval, insurers adopting a mandatory endorsement need not make form changes or submit a form filing specific to Act 91 and Regulation 2000-01-IH. If an insurer chooses to make specific form changes, these forms shall be filed for approval

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3. All insurance policies and contracts, with the exception of annuities, shall be physically endorsed or amended in 2001 to comply with Act 91 and Regulation 2000-01-IH. 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 Act 91 and Regulation 2000-01-IH 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.
4. If an insured requests that their policy or contract be amended to comply with Act 91, the insurer shall promptly endorse or amend the policy or contract, except annuities, using a form approved by the Department.

Dated at Woodstock, Vermont, this 1st day of January, 2001.

  
Elizabeth R. Costle, Commissioner

## **VERMONT MANDATORY CIVIL UNIONS ENDORSEMENT**

### **PURPOSE:**

Vermont law requires that health insurers offer coverage to parties to a civil union that is equivalent to coverage provided to married persons. This endorsement is part of and amends this policy, contract or certificate to comply with Vermont law.

### **DEFINITIONS, TERMS, CONDITIONS AND PROVISIONS:**

The definitions, terms, conditions and any other provisions of the policy, contract, certificate and/or riders and endorsements to which this mandatory endorsement is attached are hereby amended and superseded as follows:

Terms that mean or refer to a marital relationship, or that may be construed to mean or refer to a marital relationship, such as "marriage," "spouse," "husband," "wife," "dependent," "next of kin," "relative," "beneficiary," "survivor," "immediate family" and any other such terms include the relationship created by a civil union established according to Vermont law.

Terms that mean or refer to the inception or dissolution of a marriage, such as "date of marriage," "divorce decree," "termination of marriage" and any other such terms include the inception or dissolution of a civil union established according to Vermont law.

Terms that mean or refer to family relationships arising from a marriage, such as "family," "immediate family," "dependent," "children," "next of kin," "relative," "beneficiary," "survivor" and any other such terms include family relationships created by a civil union established according to Vermont law.

"Dependent" means a spouse, a party to a civil union established according to Vermont law, and a child or children (natural, step-child, legally adopted or a minor or disabled child who is dependent on the insured for support and maintenance) who is born to or brought to a marriage or to a civil union established according to Vermont law.

"Child or covered child" means a child (natural, stepchild, legally adopted or a minor or disabled child who is dependent on the insured for support and maintenance) who is born to or brought to a marriage or to a civil union established according to Vermont law.

### **CAUTION: FEDERAL LAW RIGHTS MAY OR MAY NOT BE AVAILABLE**

Vermont law grants parties to a civil union the same benefits, protections and responsibilities that flow from marriage under state law. However, some or all of the benefits, protections and responsibilities related to health insurance that are available to married persons under federal law may not be available to parties to a civil union. For example, federal law, the Employee Income Retirement Security Act of 1974 known as "ERISA," controls the employer/employee relationship with regard to determining eligibility for enrollment in private employer health benefit plans. Because of ERISA, Act 91 does not state requirements pertaining to a private employer's enrollment of a party to a civil union in an ERISA employee welfare benefit plan. However, governmental employers (not federal government) are required to provide health benefits to the dependents of a party to a civil union if the public employer provides health benefits to the dependents of married persons. Federal law also controls group health insurance continuation rights under "COBRA" for employers with 20 or more employees as well as the Internal Revenue Code treatment of health insurance premiums. As a result, parties to a civil union and their families may or may not have access to certain benefits under this policy, contract, certificate, rider or endorsement that derive from federal law. You are advised to seek expert advice to determine your rights under this contract.