

**TITLE 50: INSURANCE**  
**PART 2603 UNFAIR DISCRIMINATION BASED ON SEX, SEXUAL PREFERENCE OR MARITAL STATUS**  
**CHAPTER I: DEPARTMENT OF INSURANCE**

**Section 2603.10 Authority**

This Part is promulgated by the Director of Insurance pursuant to Section 401 of the Illinois Insurance Code (Ill. Rev. Stat., 1981, ch. 73, Section 1013), which empowers the Director "...to make reasonable rules and regulations as may be necessary for making effective..." the insurance laws of this State. This Part implements Sections 236, 355a, 364 and 424(1) of the Illinois Insurance Code (Ill. Rev. Stat., 1981, ch. 73, pars. 848, 967a, 976, 1031(1)). Failure to adhere to the standards herein set forth shall subject the offender, in addition to any other penalties provided by law, to proceedings under Article XXVI of the Illinois Insurance Code.

**Section 2603.20 Purpose and Scope**

The purpose of this Part is to eliminate unfair discrimination based upon sex, sexual preference or marital status in the terms and conditions of insurance contracts and in the underwriting criteria of insurance carriers. This Part shall apply to all companies authorized to do an insurance business in this State of the kind or kinds of business described in Class 1(a), 1(b) or Class 2(a) of Section 4 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 616), all companies licensed in accordance with the Non-Profit Health Care Service Plan Act (Ill. Rev. Stat., 1981, ch. 32, par. 551, et seq), the Voluntary Health Services Plans Act (Ill. Rev. Stat., 1981, ch. 32, par. 595, et seq), the Medical Service Plan Act (Ill. Rev. Stat., 1981, ch. 32, par. 563, et seq), the Health Maintenance Organization Act (Ill. Rev. Stat., 1981, ch. 111 1/2, par. 1401, et seq) and to all Fraternal Benefit Societies licensed in accordance with article XVII of the Illinois Insurance Code (Ill. Rev. Stat., 1981, ch. 73, par. 894, et seq). This regulation shall not affect the rights of fraternal benefit societies as specified in Sections 283 and 296(6) of the Illinois Insurance Code (Ill. Rev. Stat., 1981, ch. 73, pars. 895 and 908(6)).

**Section 2603.30 Prohibited Practices**

No company shall refuse to issue any contract of insurance, certificate of insurance, notices of proposed insurance, policies, endorsements or riders or decline to renew such contract, certificate, notice, policy, endorsement or rider because of the sex, sexual preference or marital status of the insured or prospective insured. The amount of benefits payable or any term, condition or type of coverage shall not be restricted, modified, excluded or reduced on the basis of the sex, sexual preference or marital status of the insured or prospective insured. All underwriting criteria shall be applied in all instances of similar circumstances without regard to the sex, sexual preference or marital status of the insured or prospective insured. Where benefits for elective procedures are offered, they must be offered equally.

- a) Examples of the practices prohibited by this Section include, but are not limited to:
- 1) Offering coverage to males gainfully employed at home, employed part-time or employed by relatives while denying or offering reduced coverage to females similarly employed;
  - 2) Denying policy riders because of an individual's sex, sexual preference or marital status;
  - 3) Denying, cancelling or refusing to renew coverage, or providing coverage on different terms because the insured or prospective insured is residing with another person or persons of either sex not related by blood or marriage;

- 4) Reducing disability benefits for women who become disabled while not gainfully employed full-time out-side the home when a similar reduction is not applied to men;
  - 5) Restricting availability of maternity coverages or benefits based upon marital status;
  - 6) Offering dependent coverage to wives of male employees while denying dependent coverage to husbands of female employees;
  - 7) Establishment of different conditions or benefit options based on an individual's sex, sexual preference or marital status. This includes more restrictive benefit periods and more restrictive definitions of disability to women than to men except as permitted by this Part;
  - 8) Requiring an applicant to submit to a medical examination because of the applicant's sex, sexual preference or marital status;
  - 9) Denying to divorced or single persons coverage available to married persons;
  - 10) Denying disability income contracts of insurance, certificates of insurance, notices, policies, riders or endorsements to those in similar occupational classifications because of an individual's sex, sexual preference or marital status;
  - 11) Considering that portion of treatment attributed to complications of pregnancy in a manner different than any other illness or sickness covered by the contract, certificate, notice, policy, endorsement or rider;
  - 12) Limiting the amount of coverage an insured or prospective insured may purchase based upon the sex, sexual preference or marital status of the insured or prospective insured;
  - 13) Denying maternity coverages to an individual who has not purchased dependent or family coverage when maternity coverages are otherwise available.
- b) Examples of practices not prohibited by this Section include, but are not limited to:
- 1) Offering annuity benefit amounts which differ (such as through the election of a settlement option in a Life Insurance Policy) based upon the individual's sex;
  - 2) Taking marital status into account for the purpose of determining a spouse eligible for dependent benefits under a group or family policy; marital status of the named insured or certificate holder shall not be taken into account for the purpose of determining eligibility for dependent benefits with regard to natural or adopted children and to obligations as required by the courts. When maternity benefits are provided, such benefits shall be applied to natural or adopted children who are covered as dependents.

#### **Section 2603.40 Rates**

- a) No insurance company shall place a risk in a rating classification on the basis of sex, sexual preference or marital status or otherwise differentiate in rates on the basis of sex, sexual preference or marital status unless such classification or differentiation is based upon expected claim costs and expenses derived by applying sound actuarial principles to relevant and reasonably current company or intercompany studies, claim costs and expense experience. Three years after the effective date of this Part no company shall

charge a differential by sex, sexual preference or marital status larger than the differential indicated by the criterion stated in the preceding sentence. An insurer shall, upon request of the Director of Insurance, justify to the Director that such classification or differentiation equitably and reasonably reflects differences in expected claim costs and expenses.

- b) Effective July 1, 1976, unless otherwise specified, this Section shall apply to all previously issued contracts, notices, policies, endorsements or riders, which do not contain provisions for guaranteed rates, at the time of any future rate change.

#### **Section 2603.50 Severability Provision**

If any Section or portion of a Section of this Part, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the Part, or the applicability of such provision or circumstance, shall not be affected thereby.

#### **Section 2603.60 Effective Date**

This Part shall become effective July 1, 1976, and will apply to all contracts, endorsements or riders issued on or after that date.