

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue
Cranston, RI 02920

INSURANCE REGULATION 118

CIVIL UNIONS

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Section 1 **Authority**

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 15-3.1-6, 42-14-17 and 42-35-3 *et seq.*

Section 2 **Purpose**

The purpose of this regulation is to prohibit insurers from unfairly discriminating between married couples and parties to a civil union.

Section 3 **Applicability and Scope**

- A. This regulation applies to any person transacting the business of insurance in the State of Rhode Island.
- B. Except as expressly provided herein, this regulation applies to all insurance policies and contracts solicited, delivered, issued, or renewed in the state of Rhode Island.
- 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 R.I. Gen. Laws § 27-25-6 or to determine the scope of beneficiaries in accordance with R.I. Gen. Laws § 27-25-17. Further this regulation shall not apply to a fraternal benefit society that has been established and is operating for charitable or

educational purpose and which is operated, supervised or controlled by or in connection with a religious organization where compliance with this regulation would violate R.I. Gen. Laws § 15-3.1-5.

- D. Nothing herein shall be construed to prevent or prohibit a self-insured or self-funded entity from extending insurance to civil union spouses.

Section 4 Definitions

As used in this Regulation:

- A. “Civil Union” shall mean a comprehensive statewide domestic partnership established pursuant to R.I. Gen. Laws § 15-3.1-1 *et seq.* or laws of another state.
- B. “Department” shall mean the Insurance Division of the Department of Business Regulation.
- C. “Insurance policy” or “Insurance contract” shall include but not be limited to any contract of insurance, indemnity, medical, dental, optometric, hospital service, suretyship, or annuity, issued, proposed for issuance, or intended for issuance by any insurer.
- D. “Insurer” shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurers, fraternal benefit society, hospital or medical service corporations, health maintenance organization, managed care organization, or any other legal entity engaged in the business of insurance including producers, brokers, appraisers and adjusters. For the purpose of this regulation, insurance shall also include third party administrators and other agents and contractors of persons engaged in the business of insurance in Rhode Island.
- E. “Party to a Civil Union” shall mean a person who has established a civil union pursuant to applicable state law.

Section 5 Interpretation of Department Regulations

Pursuant to R.I. Gen. Laws § 15-3.1-6, parties to a civil union 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 denotes 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 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.

- B. Effective January 1, 2012, 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 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 by R.I. Gen. Laws 27-29-4.
- 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 unrelated to civil union status. Preferential rates or discounts offered to a married person 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 as that term is used in R.I. Gen. Laws § 27-4-27. Both parties in a civil union shall also automatically have an insurable interest in a child for whom one party in a civil union becomes the natural or adoptive parent 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 person. If an insurer declines to provide a benefit or to amend an insurance contract because it determines that the application of federal law affects the provision of a benefit available to a married person to a party to a civil union, the insurer shall (1) notify the party to a civil union of the declination and the specific reason why the insurer takes the position that federal law prohibits extension of the benefit and (2) notify the Department of its determination.

Section 7 Form Filings

- A. All forms filed on or after the effective date of this regulation will not be approved if the term “spouse” or “marriage” or any other synonym does not include parties to a civil union.
- B. The Department will not require the re-filing of forms previously approved. Such forms shall be amended by operation of law to include parties to a civil union in the definition of “spouse” or “marriage” or any synonym to those terms.

Section 8 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality of such provision or application thereof shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end, the provisions of this Regulation are severable.

Section 9 Effective Date

This Regulation and the amendments thereto shall be effective as indicated below.

EFFECTIVE DATE: December 23, 2011