

SENATE BILL NO. 401

INTRODUCED BY C. STAPLETON

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A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE ANTIDISCRIMINATION PROVISION RELATED TO GENDER AND MARITAL STATUS IN INSURANCE; PROVIDING THAT IT IS NOT DISCRIMINATION TO BASE INSURANCE PREMIUMS ON GENERALLY ACCEPTED INDUSTRY ACTUARIAL STANDARDS; PROVIDING THAT INSURANCE RATINGS OR PREMIUMS MAY NOT BE DISTINGUISHED ON THE BASIS OF GENDER OR MARITAL STATUS FOR INDIVIDUAL OR GROUP HEALTH INSURANCE POLICIES FOR COVERAGE OF REPRODUCTIVE HEALTH CARE; AMENDING SECTIONS 33-1-502 AND 33-20-1313, MCA; REPEALING SECTION 49-2-309, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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NEW SECTION. **Section 1. Nondiscriminatory factors in insurance -- exception.** (1) Except as provided in subsection (2), it is not a discriminatory practice when, in establishing insurance premium rates based on gender and marital status, the rates are developed using generally approved industry actuarial standards.

(2) It is an unlawful discriminatory practice for a person to differentiate ratings for persons on the basis of gender or marital status for costs associated with reproductive health care for individual and group health insurance policies.

(3) For the purposes of this section, "reproductive health care" means the prevention or control of a condition or disease through the diagnosing, monitoring, and treating of the human reproductive system functions and processes.

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**Section 2.** Section 33-1-502, MCA, is amended to read:

**"33-1-502. Grounds for disapproval.** The commissioner ~~shall~~ may disapprove any form filed under 33-1-501 or withdraw any previous approval ~~thereof~~ of a form only if the form:

- (1) is in any respect in violation of or does not comply with this code;
- (2) contains or incorporates by reference, ~~where such~~ when the incorporation is otherwise

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1 permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions ~~which~~ that  
 2 deceptively affect the risk purported to be assumed in the general coverage of the contract, including a  
 3 provision in a casualty insurance form permitting defense costs within limits, except as permitted by the  
 4 commissioner in ~~his~~ the commissioner's discretion;

5 (3) has any title, heading, or other indication of its provisions ~~which~~ that is misleading; or

6 (4) is printed or otherwise reproduced in ~~such a manner as to render~~ that renders any provision  
 7 of the form substantially illegible;

8 ~~(5) contains any provision that violates the provisions of 49-2-309."~~

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10 **Section 3.** Section 33-20-1313, MCA, is amended to read:

11 **"33-20-1313. Prohibitions on finder's fee -- solicitations -- discrimination -- false or misleading**  
 12 **advertising or solicitation -- misuse of confidential information.** (1) A licensee may not pay or offer to pay  
 13 a finder's fee, commission, or other compensation to a person described in this subsection (1) in  
 14 connection with a policy insuring the life of an individual with a terminal illness or condition. The  
 15 prohibition under this subsection (1) applies with respect to payments or offers of payment to:

16 (a) the physician, attorney, or accountant of the policyholder, the certificate holder, or the insured  
 17 individual;

18 (b) any person other than a physician, attorney, or accountant described in subsection (1)(a) who  
 19 provides medical, legal, or financial planning services to the policyholder, to the certificate holder, or to  
 20 the insured individual when the individual is other than the policyholder or certificate holder; or

21 (c) any person other than one described in subsection (1)(a) or (1)(b) who acts as an agent of the  
 22 policyholder, certificate holder, or insured individual.

23 (2) A licensee may not solicit an investor who could influence the treatment of the illness or  
 24 condition of the individual whose life would be the subject of a viatical settlement contract.

25 (3) All information solicited or obtained from a policyholder or certificate holder by a licensee is  
 26 subject to the confidentiality requirements set forth in Title 33, chapter 19. For purposes of this  
 27 subsection, a licensee must be considered an insurance-support organization as defined in 33-19-104.

28 (4) A licensee may not discriminate in the making of a viatical settlement contract on the basis  
 29 of race, age, ~~sex~~, national origin, creed, religion, occupation, ~~marital~~ or family status, or sexual orientation  
 30 and may not discriminate between persons who have dependents and persons who do not have

1 dependents.

2 (5) A person licensed pursuant to 33-20-1304 may not engage in any false or misleading  
3 advertising, solicitation, or practice as described in 33-18-203.

4 (6) A person licensed pursuant to 33-20-1304 may not sell another product of insurance to the  
5 contract holder unless approval is obtained from the commissioner."

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7 NEW SECTION. **Section 4. Repealer.** Section 49-2-309, MCA, is repealed.

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9 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
10 integral part of Title 49, chapter 2, part 4, and the provisions of Title 49, chapter 2, part 4, apply to  
11 [section 1].

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13 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

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15 NEW SECTION. **Section 7. Applicability.** [This act] applies to policies entered into or renewed on  
16 or after [the effective date of this act].

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