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TESTIMONY IN SUPPORT OF 19-H 5364,
AN ACT RELATING TO GENDER RATING
February 26, 2019

The ACLU supports this legislation, which would, following the lead of the Affordable Care Act, address the problem of sex discriminatory insurance rates.

Presently, Rhode Island law permits health insurance companies to set premiums based on gender. The ACA generally makes this practice illegal. This bill would codify that change and extend it to cover all employers. In doing so, it would ensure that, notwithstanding any efforts to repeal the ACA, state law would finally and clearly outlaw this practice. Even before passage of the ACA, many nearby states, including Massachusetts, Vermont, New Hampshire, New York, and New Jersey, have banned gender rating for some time.

As the ACA recognizes, discrimination in insurance on the basis of gender is inappropriate and archaic. It is not just that the practice results in increased costs to women during most of their lives; such a practice is also wrong as a matter of policy. One could actuarially justify charging different rates to people based on their race, but over 40 years ago, the insurance industry wisely recognized the injustice of this practice and voluntarily stopped using race as a basis for insurance rates. The time has come to treat gender the same way.

According to estimates provided by OHIC a few years ago, 30% of large group members would see no ratings impact at all from this legislation, 69% (representing 90% of the state's large group market) might see a rate impact of between minus 5% to plus 5%, while only the remaining 1% of large group members might see a rate impact greater than 10%.

In the past, some opponents have complained about the impact this could have on the insurance rates for young men, who would likely see those rates rise. But the fact that eliminating a discriminatory practice will have an impact on the group that for many years has benefitted from that discrimination is no argument at all.

In its present form, the bill would take effect upon passage. In order to avoid any confusion, we support an amendment that would clarify that it would affect only policies created or renewed after January 1, 2020. With that amendment, we urge the committee's passage of this important bill.