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**TESTIMONY ON 15 H-5988,
RELATING TO HEALTH INSURANCE COVERAGE
April 7, 2015**

Last week, this committee heard testimony on H-5754, Rep. Kazarian's bill, supported by the ACLU and many others, that would ban the use of gender rating in health insurance in the state. The Office of the Health Insurance Commissioner opposed that bill, referring to this legislation instead as the preferred vehicle for addressing this very important issue of discrimination. Unfortunately, in at least two significant ways, this bill does not address the problem in the clear and comprehensive manner that H-5754 does. We therefore urge that H-5988 be amended to do so.

Since 2014, the Affordable Care Act has banned the use of gender rating in individual and small group insurance plans, defined under federal law as those employing up to 50 employees. Beginning on January 1, 2016, the ACA will redefine small group plans to cover those with 100 or fewer employees. H-5754 went one necessary step further by also banning gender rating in large group insurance plans – plans which, of course, cover a large number of employees, and therefore represent a critical component in addressing this issue. Although those large plans generally use a wide variety of experiential ratings, the goal should be to eliminate this one discriminatory factor from use. That is the goal of Rep. Kazarian's bill and that of a number of surrounding states that have passed laws similar to her bill. H-5988, however, would allow large plans to continue to discriminate.

According to estimates provided by last year's OHIC Commissioner in support of the anti-discrimination principle in Rep. Kazarian's bill, 30% of large group members would see no ratings impact at all from her 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%. Under all the circumstances, we are deeply troubled that the OHIC bill fails to address this issue in any way.

The bill is troubling for another reason. Presently, Rhode Island law defines a small employer as one with 50 or fewer eligible employees. This bill would explicitly ban gender rating only for that group, as the ACA already mandates. However, as noted above, beginning next January, the ACA imposes a gender rating ban for employers with **100** or fewer employees. However, rather than comport with that change in definition, H-5988 continues to define a small employer as one with no more than 50 eligible employees – unless the commissioner determines that a revision of the definition to accord with federal law is "in the best interests of the public." R.I.G.L. 27-50-3(33), Page 38-39. This not only conflicts with the ACA, we submit it is never in the best interests of the public to promote this type of sex discrimination. We are all aware of the many attempts at the national level to weaken or repeal the ACA. This bill seems to look forward to that happening, hoping that the upcoming January 1 change in the definition of small group plans gets postponed or repealed. Instead, legislation should be embracing the ACA's planned reduction of sex discriminatory insurance plans beginning on January 1.

Since this bill fails to meaningfully address the issue of gender rating, the ACLU urges that it be amended to incorporate the anti-discrimination provisions contained in H-5754.