



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

**BULLETIN IC – 21 (rev)
July 10, 2009**

TO: All Property and Casualty Insurers, All Life and Health Insurers, All Hospital Service Corporations, All Medical Service Corporations, All Health Care Centers, and Fraternal Benefit Societies (not connected to a religious organization)
Authorized to Conduct Business in Connecticut

SUBJECT: Definition of Spouse under Insurance Policies / Public Act 09-13

The Connecticut Insurance Department on November 18, 2008 provided information to insurers and other licensed entities on the Connecticut Supreme Court ruling on same sex marriage as well as a reminder to insurers and other licensed entities of Connecticut's 2005 law concerning civil unions.

At this time the Connecticut Insurance Department is updating Bulletin IC-21 as the Connecticut legislature recently enacted Public Act 09-13 which changes various Connecticut laws, primarily to conform to the Kerrigan decision (described below).

1. Connecticut Supreme Court decision on same sex marriage / Public Act 09-13

The Connecticut Supreme Court held on October 10, 2008, in Elizabeth Kerrigan et al v. Commissioner of Public Health et al (289 Conn.135) that the Connecticut law limiting marriage to heterosexual couples violates the state constitutional guarantee of equal protection for all. As a result of the decision, a spouse in a same sex marriage is to be treated the same as a spouse in a heterosexual marriage, for all purposes, including insurance. Public Act 09-13 reaffirms this result.

The Department does not require any re-filing of forms. However, the term "spouse" as used in existing insurance policies and contracts is interpreted to include a same sex spouse, pursuant to a legal marriage entered into in Connecticut or another state which recognizes same sex marriage.

With respect to new forms filed by insurers, the Department does not approve forms which exclude a same sex married partner from the definition of "spouse" in a policy, or otherwise do not provide the same treatment for a same sex spouse as for an opposite sex spouse, under policy benefits, terms, and conditions.

2. Public Act 05-10 Concerning Civil Unions (effective through September 30, 2010)

Effective October 1, 2005, the Connecticut legislature enacted Public Act 05-10 (codified as Sections 46b-38aa to 46b-38pp, inclusive, Connecticut General Statutes). Public Act 05-10 provides that same sex partners are permitted to obtain a license and to enter into a legal civil union. Parties who have been joined in a civil union in Connecticut and issued a license by an applicable town registrar of vital statistics, are entitled to all the same benefits, protections, and responsibilities under law, as are granted to spouses in a marriage. Parties who have entered into a legal civil union in another state, but covered under a Connecticut-regulated policy, are also entitled to the same treatment. Accordingly, the Department reiterates that insurers are

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required to treat partners who have entered into civil unions the same as spouses are treated for insurance purposes.

As insurers have filed forms from October 1, 2005 on, the Department has been requiring changes in forms by insurers, as necessary, to give effect to Public Act 05-10.

Important Change: Public Act 09-13 repeals the civil union law effective October 1, 2010. No new civil unions may be entered into on or after October 1, 2010. However, this repeal does not impact valid civil unions entered into prior October 1, 2010. Parties to an existing civil union may enter into a same sex marriage, but if not, by operation of law, the existing valid civil union merges into a marriage effective October 1, 2010 (unless the civil union has been dissolved or annulled or is in the process of being dissolved or annulled).

3. Domestic Partners

Domestic partnership arrangements are not included under the court decision or laws cited above. A domestic partner can only be covered if the insurance policy contains specific language providing that a domestic partner is an eligible dependent.

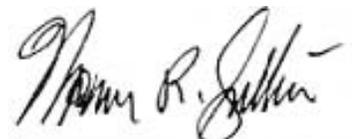
4. Federal Law

Federal law does not preempt state laws regarding same sex marriages or civil unions. Therefore, insurers filing forms in Connecticut must comply with Connecticut law and may not limit policy coverage to a spouse of the opposite sex.

However, the Department recognizes that, under federal tax laws, a same sex spouse or civil union partner does not receive the same tax treatment as an opposite sex spouse. Accordingly the Department encourages insurers with products impacted by federal tax rules (such as annuities) to include a statement in policy forms that there may be federal tax implications (for a same sex spouse or civil union partner).

5. Fraternal Benefit Societies

Most fraternal benefit societies are subject to the rules described in this Bulletin, except for those fraternal benefit societies which are established and operating for charitable and educational purposes and which, in addition, are operated, supervised or controlled by, or in connection with, a religious organization. Fraternal benefit societies with this requisite religious connection are not obligated to provide insurance benefits to any person if it violates the fraternal benefit society's free exercise of religion protected under the federal and state Constitutions.



Thomas R. Sullivan
Insurance Commissioner