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**TESTIMONY IN SUPPORT OF 18-H 7363,  
AN ACT RELATING TO GENDER RATING**  
**February 27, 2018**

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%.

Since 2014, the ACA has banned gender rating in individual and small group insurance plans, defined then as those employing up to 50 employees. Beginning on January 1, 2016, the ACA was set to redefine small group plans to cover those with 100 or fewer employees, but that change was unfortunately, put on hold. In addition to codifying these practices, this bill would also ban 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.

Past opposition to taking this step has often focused on the impact it 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, 2019. With that amendment, we urge the committee's passage of this important bill.