

**State of Utah**  
**Administrative Rule Analysis**  
 Revised June 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-83</b>	<b>Filing ID (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R590-83. Unfair Discrimination on the Basis of Gender or Marital Status
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Others are changes to make the language of the rule more clear, and the Severability section is being updated to use the department's current language. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

**6. A) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 31A-23a-402	

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	

<b>Issue, or version</b>	
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**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 12/01/2021

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY become effective on** (mm/dd/yyyy): 12/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date</b> (mm/dd/yyyy):	10/04/2021
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**R590. Insurance, Administration.**

**R590-83. Unfair Discrimination on the Basis of ~~[Sex]~~ Gender or Marital Status.**

**R590-83-1. Authority.**

This rule is promulgated by the commissioner pursuant to ~~[Subsection]~~ Sections 31A-2-201~~[(3)(a), which empowers the Commissioner to enforce Title 31A and to make rules to implement its provisions, and Subsection]~~ and 31A-23a-402~~[(8), which empowers the commissioner to define and prohibit unfair marketing practices]~~.

**R590-83-2. Purpose and Scope.**

(1) The purpose of this rule is to identify and define certain practices ~~[which]~~ that the commissioner finds are unfair and discriminatory.

(2) This rule applies to an insurer engaged in the business of insurance.

**R590-83-3. ~~[Scope]~~ Definitions.**

~~[This rule applies to all new or renewal insurance contracts offered for sale in Utah]~~ Terms used in this rule are defined in Section 31A-1-301.

**R590-83-4. Availability Requirements and Prohibited Transactions.**

~~[Availability of any]~~ (1) An ~~[insurance contract may not be denied to an]~~ insured or prospective insured may not be denied coverage on the basis of ~~[sex]~~ gender or marital status ~~[of the insured or prospective insured]~~.

(a) The amount of benefits payable, or any term, condition, or type of coverage may not be restricted, modified, excluded, or reduced on the basis of ~~[the sex]~~ gender or marital status ~~[of the insured or prospective insured, except m]~~.

~~(b) Marital status may not be considered [for the purpose of] when defining eligibility for dependent or family coverage. [An insurer may treat a polygamous relationship differently than a monogamous relationship for purposes of defining or providing dependent or family coverage provided that the treatment reflects reasonable treatment of the interests of the affected parties and safeguards the economic interests of the insurer and other policyholders or prospective policyholders. Any insurer or representative of an insurer acting in contravention of this rule shall be deemed to have engaged in an unfair or deceptive act or practice as provided by Chapter 23a, Title 31A. Examples of the practices prohibited by this section.]~~

~~(2) Prohibited practices include:~~

- ~~(a) denying, canceling or refusing to renew coverage, or providing coverage on different terms, because the insured or prospective insured is residing with another person not related by blood or marriage;~~
- ~~(b) offering coverage to [males]an individual of a particular gender gainfully employed at home, employed part-time, or employed by relatives while denying or offering reduced coverage to [females]an individual of a different gender similarly employed;~~
- ~~(c) reducing disability benefits for [females]an individual of a particular gender who becomes disabled while not gainfully employed full-time outside the home when a similar reduction is not applied to [males]an individual of a different gender;~~
- ~~(d) denying [females]an individual of a particular gender a waiver of premium provisions that are available to [males]an individual of a different gender, or offering the provisions to [females]an individual of a particular gender only for contract limits that are lower than those available to [males]an individual of a different gender;~~
- ~~(e) refusing to offer maternity benefits to [insureds or prospective insureds]an insured or prospective insured purchasing an individual contract[s] when a comparable family coverage contract[s] offers maternity benefits;~~
- ~~(f) denying, under a group contract[s], dependent[s] coverage to [husbands]the spouse of [female employees]an employee of a particular gender when dependent[s] coverage is available to [wives]the spouse of [male employees]an employee of a different gender;~~
- ~~(g) offering coverage to [males]an individual of a particular gender in certain occupations while denying coverage or offering more limited coverage to [females]an individual of a different gender in the same occupational categories;~~
- ~~(h) offering [males]an individual of a particular gender higher benefit levels or longer benefit[s] periods, or both, than are offered to [females]an individual of a different gender in the same classifications;~~
- ~~(i) offering a contract[s] containing different definitions of disability for [females and males]an individual of a particular gender and an individual of a different gender in the same classifications;~~
- ~~(j) offering a contract[s] containing different waiting and elimination periods for [females and males]an individual of a particular gender and an individual of a different gender;~~
- ~~(k) requiring [female applicants]an applicant of a particular gender to submit to a medical examination[s] while not requiring [males]an applicant of a different gender to submit to [the]a medical examination[s] for the same coverage;~~
- ~~(l) establishing different benefit options for [females and males]an individual of a particular gender and an individual of a different gender;~~
- ~~(m) denying to a divorced or a single person[s] coverage available to a married person[s];~~
- ~~(n) limiting the amount of coverage available to an insured or prospective insured based upon the person's marital status;~~
- ~~(o) denying an employee[s] of [one sex]a particular gender insurance benefits that are offered to a dependent[s] who [are]is of the same [sex]gender as the employee[s];~~
- ~~(p) denying a married or separated [female]individual of a particular gender the right to obtain or continue coverage in [her]the individual's own name when the same does not apply to [males]an individual of a different gender;~~
- ~~(q) establishing different issue age requirements for [females and males]an individual of a particular gender and an individual of a different gender;~~
- ~~(r) establishing different occupational classifications for [females and males]an individual of a particular gender and an individual of a different gender;~~
- ~~(s) denying coverage to an unwed person[s] or their dependent[s], or both.~~

#### **R590-83-5. Class Rating Differentials.**

~~(1) The establishment of reasonable and consistently applied class rating differentials does not constitute a practice prohibited by Section [4]R590-83-3[. This rule may not be deemed to prohibit charging different premium rates on the basis of sex].~~

~~(2) Unless otherwise prohibited by law, this rule permits charging different premium rates on the basis of gender.~~

#### **R590-83-6. Severability.**

~~[If any provision of this rule is held invalid, it may not affect the provisions of this rule that can be given effect, and to that extent, the provisions of this rule are declared to be severable. If any provision of this rule, Rule R590-83, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.]~~

**KEY: insurance law**

**Date of Enactment or Last Substantive Amendment: 1989**

**Notice of Continuation: August 20, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-23a-402; 31A-2-201**