

MODEL REGULATION ON UNFAIR DISCRIMINATION ON THE BASIS OF BLINDNESS OR PARTIAL BLINDNESS

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Section 1. Authority

This regulation is promulgated pursuant to the authority granted by Section 12 of the Unfair Trade Practices Act.

Section 2. Purpose

The purpose of this regulation is to identify specific acts or practices that are prohibited by Section 4G of the Unfair Trade Practices Act.

Section 3. Unfairly Discriminatory Acts or Practices

The following are hereby identified as acts or practices that constitute unfair discrimination between individuals of the same class: refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

Drafting Note: With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons.

Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines “disability” as being presumed in the event that the insured loses his or her eyesight.

However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when the condition existed at the time the policy was issued.

Drafting Note: States which have not adopted Section 4G or Section 12 of the NAIC Model Unfair Trade Practices Act may not be able to adopt the proposed regulation. The NAIC Task Force on Unfair Discrimination Against The Blind has developed the following statutory language designed to accomplish the same result as the proposed regulation, but which is not an official NAIC model act:

“Section 1. Unfair methods of competition and unfair or deceptive acts or practices in the business of life or accident or health insurance or annuities include: refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

Section 2. This law shall apply to life or accident or health insurance policies or insurance contracts or annuities delivered or issued for delivery in this state by an insurer ninety (90) days after the effective date of this law.”

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1978 Proc. II 31, 34, 266, 268, 273 (adopted).

1985 Proc. I 19, 37-38, 572-573 (amended).

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This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state’s activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC’s interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

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KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner**.

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama	ALA. ADMIN. CODE r. 74 (1985).	
Alaska	ALASKA ADMIN. CODE tit. 3, § 26.410 (1990).	Order No. 85-1 (1985).
American Samoa		
Arizona	ARIZ. ADMIN. CODE § 20-6-211 (1978/2007).	
Arkansas	ARK. CODE R. § 37 (1985).	
California	CAL. INS. CODE § 10145 (1986).	
Colorado	NO CURRENT ACTIVITY	
Connecticut	CONN. REV. STAT. § 38a-816(13) (1982/1986).	
Delaware		DEL. CODE ANN. tit. 18, § 2316 (1977).
District of Columbia	NO CURRENT ACTIVITY	
Florida		FLA. STAT. § 626.9705 (1975/1982).

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Georgia	GA. CODE ANN. § 33-6-5(10) (1985).	
Guam	NO CURRENT ACTIVITY	
Hawaii	NO CURRENT ACTIVITY	
Idaho	IDAHO ADMIN. CODE r. 51.18.01.51 (1986/1993).	
Illinois	215 ILL. COMP. STAT. 5/236 (1981/1985).	
Indiana	IND. CODE § 27-4-1-4(15) (1981/1983); 760 IND. ADMIN. CODE 1-34-1 to 1-34-3 (2007/2013).	
Iowa	IOWA ADMIN. CODE r. 191-15.83 (1963/1987).	
Kansas	KAN. STAT. ANN. § 40-2404(7)(c) (1987).	
Kentucky	KY. REV. STAT. ANN. §§ 304.12-080 to 304.12-085 (1986) (applies to L/H only).	
Louisiana		LA. REV. STAT. ANN. § 22:652.1 (1982).
Maine	ME. REV. STAT. ANN. tit. 24-A, § 2159-A (1985).	
Maryland		MD. CODE ANN., INS. § 27-208 (1979/1997).
Massachusetts		MASS. GEN. LAWS ch. 175, § 108A; § 120B, § 193T; MASS. GEN. LAWS ch. 176A, § 8C; MASS. GEN. LAWS ch. 176B § 4D (1975).
Michigan	NO CURRENT ACTIVITY	

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Minnesota	MINN. R. 2700.3200 (11) (1986).	
Mississippi	87 MISS. CODE R. § 101 (1987).	
Missouri	MO. CODE REGS. ANN. tit. 20, § 100-2.200 (1985).	
Montana	MONT. ADMIN. R. 6.6.2106 (1979/2009).	
Nebraska	210 NEB. ADMIN. CODE § 35 (1978/1994).	
Nevada	NEV. ADMIN. CODE § 686A.160 (1984/1994).	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	N.J. CODE ADMIN. R. ANN. INS. 11:4-20.1 to 11:4-20.2 (1979/1985).	BULLETIN 86-6 (1986).
New Mexico	N.M. STAT. ANN. § 59A-16-13.2 (1993).	
New York	NO CURRENT ACTIVITY	
North Carolina	N.C. GEN. STAT. § 58-3-25 (1985).	
North Dakota	N.D. CENT. CODE §§ 26.1-04-03 (1987); §§ 26.1-04-05.1 (1983/1987).	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	OHIO REV. CODE ANN. § 3901.21(Q) (1987).	OHIO REV. CODE ANN. § 3999.16 (1976) ("unfair discrimination against handicapped").
Oklahoma	OKLA. ADMIN. CODE § 365:10-1-5 (1985).	

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Oregon	OR. ADMIN. R. 836-81-020 to 836-81-030 (1985).	OR. REV. STAT. § 746.015(2) (1973).
Pennsylvania	NO CURRENT ACTIVITY	
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island	NO CURRENT ACTIVITY	
South Carolina	S.C. CODE ANN. REGS. 69-32 (1980/1986).	
South Dakota	S.D. CODIFIED LAWS ANN. § 58-33-12.1 (1983).	
Tennessee	TENN. COMP. R. & REGS. ch. 0780-1-34-.04 (1985).	
Texas	28 TEX. ADMIN. CODE § 21.702 (1992).	
Utah	UTAH ADMIN. CODE r. 590-129-1 to 590-129-4 (1989/2009).	
Vermont	VT. CODE R. § 78-2 (1978).	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	VA. CODE ANN. § 38.2-508 (1986) (includes mental or physical impairments).	
Washington		WASH. REV. CODE ANN. § 48.30.300 (1976); BULLETIN 86-6.
West Virginia	NO CURRENT ACTIVITY	
Wisconsin		WIS. ADMIN. CODE INS. § 6.67 (1980/1987).
Wyoming	WYO. CODE R. 9 (1984).	