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Joint Committee on Financial Services  
Sen. Jamie Eldridge & Rep. Aaron Michlewitz, Chairs

## **SUPPORT: H.482/S.545**

### **Gender-Neutral Disability Insurance**

Because women should not have to pay thousands of dollars more

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Over a period of decades, Massachusetts has made consistent progress in ending discrimination in insurance based on the policy holder's gender. Today, we take for granted that health insurance is gender neutral – as a matter of law. So are auto insurance, homeowners insurance, and annuities. Ensuring gender neutrality in insurance is a matter of equal treatment and it's a matter of economic fairness.

The ACLU of Massachusetts urges this committee to continue this important work by making disability policies gender-neutral as well.

#### **The Problem and its Scope**

This is not a small issue. Today, more than a million Massachusetts residents rely on disability coverage to ensure that they will continue to have income in the event of illness or injury that prevents them from working. The replacement income that disability coverage represents can be critical in sustaining a household or family.

Policies provided to large groups of people through their employers are already gender neutral, because under federal non-discrimination law employers may not provide different benefits to men and women. However, nearly 200,000 Massachusetts residents paid premiums on their own *individual* disability insurance policies in recent years. And, across the board, women pay higher premiums for the same coverage compared with men in the same job classification.

Filings with the Division of Insurance show that this is true regardless of the insurance company, the age of the purchaser, the occupation class, the duration of benefits, or whether the benefits are long-term or short-term. In every case, women pay more. Indeed, a sample filing from a Massachusetts company shows that to purchase a disability insurance policy worth \$5000 in monthly benefits, a 50 year-old non-smoking woman must pay 46% more than a 50-year-old non-smoking man in the same occupation class.

Over the lifetime of a policy, the difference can be thousands of dollars. Women should not have to pay thousands of dollars more than men for the same product.

## **Differential Treatment Based on Gender is Discrimination**

It seems that opposition to gender neutrality in disability coverage rests on the idea that women, as a group, file more claims than men, as a group. Insurers would say that women are a greater risk. But payments for disability policies are made in fixed monthly amounts. There are no big cost surprises for insurers underwriting disability policies, regardless of the gender of the policyholder. Any “risks” associated with different claims rates for men and women are risks that insurers well know how to manage, as evidenced by the fact that employer-based disability insurance policies are already gender neutral and have been for decades, since the U.S. Supreme Court called gender classification in employer-based insurance unacceptable and illegal discrimination.

If companies would justify charging women more than men on the basis that women tend to file more claims than men, this is simple sex stereotyping. It is the essence of discrimination to treat individuals differently based on generalizations about identity groups they belong to. There is no legitimate reason for insurance companies to consider gender in underwriting disability policies, just as there is no legitimate reason for insurance companies to consider race, color, religion, or national origin.

## **Conclusion**

As a matter of economic fairness, and as a matter of equal treatment, the ACLU of Massachusetts urges the committee to give a favorable report to *An Act Providing for Equitable Coverage in Disability Policies*. We welcome the opportunity to serve as an ongoing resource on this issue. Thank you.