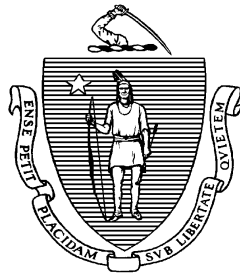


Report of Working Group On Gender Equity in Disability Policies

*A report filed with
the Clerks of the Massachusetts Senate and House of Representatives
to be forwarded to
the President of the Senate,
the Speaker of the House of Representatives,
the Minority Leader of the Senate, and
the Minority Leader of the House of Representatives*



February 2018

Acknowledgments

Kevin Beagan, Chet Lewandowski, Daniel Smith, Marissa Vertes, Niels Puetthoff and other staff members of the Division of Insurance (the “Division”), have assisted the Working Group on Gender Equity in Disability Policies in the preparation of this report to respond to Section 173 of Chapter 133 of the Acts of 2016.

The Members of the Working Group active as of the date of this report were:

Kevin Beagan, designee of Gary Anderson, Commissioner of Insurance

Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey

Joanne Campo, designee of Undersecretary of the Office of Consumer Affairs and Business Regulation,
John Chapman

Steven Clayburn, Governor appointee from the American Council of Life Insurers

Jenny Erickson, Senior Vice-President/General Counsel, Life Insurance Association of MA, Inc.

Emma Friend, designee of Massachusetts State Senator Barbara L’Italien, Senate Chair of the Joint
Committee on Consumer Protection and Professional Licensure

Ryan Gelman Esq., designee of Massachusetts State Senator Jamie Eldridge, Senate Chair of the Joint
Committee on Financial Services

Ann Morse Hartner, designee of President of the Women’s Bar Association of Massachusetts

Maeve Kidney, designee of Massachusetts House Representative Tackey Chan, House Chair of the Joint
Committee on Consumer Protection and Professional Licensure

Margot Parrot, Chairperson of the Permanent Commission on the Status of Women

Sara Schnorr, Governor appointee from the Permanent Commission on the Status of Women

Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz, House Chair of the
Joint Committee on Financial Services

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Executive Summary

The Commonwealth has a responsibility to establish appropriate consumer protections so that consumers are informed of the features of products being offered and the implications of coverage choices. The Division also has a responsibility to promote and enforce rules and monitor insurance companies' actions to ensure that needed coverage remains available while upholding all appropriate consumer protections. Consumers have generally bought disability income coverage as part of a comprehensive financial planning strategy.

Currently, individual disability income products cost substantially more when purchased by women than by similarly situated men. Despite undisputed factual evidence that female claims costs are substantially higher than those of men which is the primary basis for the higher female premiums, this creates availability problems for those women looking to buy individual products who may find the product unaffordable and who forgo coverage.

The Working Group on Gender Equity in Disability Policies met and considered differing perspectives on the rating of disability policies. It is a recommendation of a plurality of the members of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage. Other members opposed this recommendation and did not believe that the General Court should enact legislation prohibiting gender rating in individual disability policies.

Introduction

Section 173 of Chapter 133 of the Acts of 2016¹ (Chapter 133) requires that a report be submitted to the Legislature by the Working Group on Gender Equity in Disability Policies (the “Working Group”) to “study the costs and benefits of prohibiting insurance companies in the commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any other terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person’s race, color, religion, sex, marital status, or national origin. The working group shall submit its findings, along with any legislative recommendations, to the clerks of the senate and house of representatives.”

In conducting the Working Group activities, the statute identified that the Division “shall provide any resources and assistance necessary in developing the cost-benefit analysis of the working group.” The Working Group is to review many sources and obtain input from a working group composed of members identified in the statute. At the first meeting of the Working Group on October 24, 2016, Steven Clayburn explained that it is important to examine different variables when determining market prices. As an example, maternity among women as a group would most likely be a neutral factor that would lead to cost differences between males and females. Victoria Budson stated that she believed that the Working Group should not just be looking at what the actuarial data states and noted that the Equal Rights Act of 1988 precludes gender discrimination. Carolina Avellaneda stated she hoped the Working Group members would get data on the subject material from different avenues in order for the Working Group to make a sound recommendation and report.²

During the July 24, 2017 meeting of the Working Group, the group determined that it would entertain two presentations: a presentation from an Actuary, and a presentation from a Policy Expert.³ In addition, the Working Group determined at this meeting, that it would be important for the Massachusetts Division of Insurance to conduct a Special Examination, similar to a previous examination conducted in 2009, to assess the number of individual and group Disability Income Insurance enrollees as of December 31, 2016 (see page 7). Through the Actuarial presentation made by Tasha Khan, and Policy presentations made by Victoria Budson and Shane Blundell (both presentations detailed later in the report) and the Special Examination, the Working Group was able to weigh the multiple perspectives of the issue of gender neutral rating in disability income policies.

¹ See <https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter133>.

² Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on October 24, 2016 as Approved at the Meeting (see Appendix A).

³ Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on July 24, 2017 as Approved at the Meeting (see Appendix C).

Disability Income Insurance

Disability Income (DI) coverage provides income protection when medical, physical or other disabilities interrupt a person's ability to continue working. State-regulated workers' compensation systems provide protection for work-related disabilities and the federal Social Security systems provide benefits for permanent disabilities preventing a return to any employment. Private DI coverage is offered irrespective of the availability or sufficiency of workers' compensation or Social Security benefits. Private DI coverage can, however, assist individuals if their workers' compensation or Social Security benefits are not available or insufficient to replace the income generated from one's occupation or business.

Depending on the features of the policy, DI coverage offers certain levels of income replacement benefits when an insured suffers from a temporary or permanent disability. Policies may include different definitions of disability for consumers to purchase and may require that the disability prevents the insured from performing material and substantial duties of either the insured's own occupation, of any occupation, or of any occupation for which the insured may be qualified by reason of education, training or experience. DI is regulated under 211 CMR 42.05(2)(g)⁴, which states in part that:

"To promote clarity and readability, total disability must be defined to make clear the time, if any, for which an insured must be disabled, whether by being unable to engage in his or her own occupation, or in others, for which he or she is qualified by education, training, and experience, or otherwise. Definitions should avoid hard-to-understand expressions like inability to perform "each and every" or "any and every" duty of an insured's occupation.

To promote clarity and readability, partial disability, if included, shall be defined in relation to the insured person's inability to perform some part or all of the "major," "important" or "essential" duties of employment or occupation. If a policy covers both total and partial disability, the partial disability benefit will be considered to be in compliance with the provisions of M.G.L. c. 176D, if it is not contingent upon prior payments for total disability benefits.

The policy must clearly explain all limitations and elimination periods, including elimination periods affecting different levels of benefits. In addition, no benefits can be reduced in coordination with any increased benefits that the insured may receive from the Social Security System after the effective date of the benefit period."

Currently, most individual DI coverage policies are non-cancellable up to a certain age (usually 65) and conditionally renewable every year thereafter based on hours worked per week. Most group DI coverage policies are guaranteed renewable, but renewal is not based on specifics of an insured individual. Despite the non-cancellable and guaranteed renewable nature of these products, insurance companies may medically underwrite individual DI policies and may turn down applicants if they do not meet specific underwriting criteria.

While most DI insurance provides weekly or monthly benefits to an insured to replace income that is lost when the insured becomes disabled and unable to work, some policies also are issued to businesses to cover the cost of replacing a key person or paying business expenses if a managing partner is unable to work at a business.

⁴ <http://www.mass.gov/ocabr/docs/doi/legal-hearings/211-42.pdf>.

Working Group on Gender Equity in Disability Policies

Many policies are issued for short-term disability, usually covering disabilities lasting for a period of between six months and two years, although the coverage may have options for the insured to purchase additional coverage once short-term benefits are exhausted. Other policies are issued as long-term disability policies, and these usually cover disabilities lasting beyond a short-term period of time.

Many insurance carriers offer group DI coverage to employers or associations who make the DI coverage available to employees or members of the group. Other carriers offer individual DI coverage which is made available on an individually-marketed basis.

Insurance carriers offer a number of options, and individuals may purchase coverage that replaces differing levels of income in the event that the covered person becomes disabled as defined within the policy. When making choices, the insured chooses among individual DI plans based on the following types of product features:

- disabilities covered (*e.g.*, total, partial, residual, presumptive);
- level of replacement income (*e.g.*, fixed dollar amount per month or percent of lost income);
- duration of coverage (*e.g.*, number of months or years of coverage); and
- length of elimination (waiting) period before benefits begin.

Consumers may choose plans that include inflation protection, return of premium benefits, Social Security offset benefits and additional accident and sickness insurance benefits. In addition to plan benefits, plans can have different exclusions and limitations, including pre-existing condition limitations. Plan premiums will differ based on coverage chosen and additional features added to a policy.

Massachusetts Persons with Disability Income Coverage

The Division conducted a special examination survey of the DI market⁵ in 2010 to understand the emerging issues in the availability and cost of DI coverage being marketed in the Commonwealth. In order to update certain membership figures in the 2010 report, the Division conducted a follow-up special examination in 2017.

As noted in the 2010 report, as of December 31, 2009, 1,627,307 Massachusetts persons held DI plans –

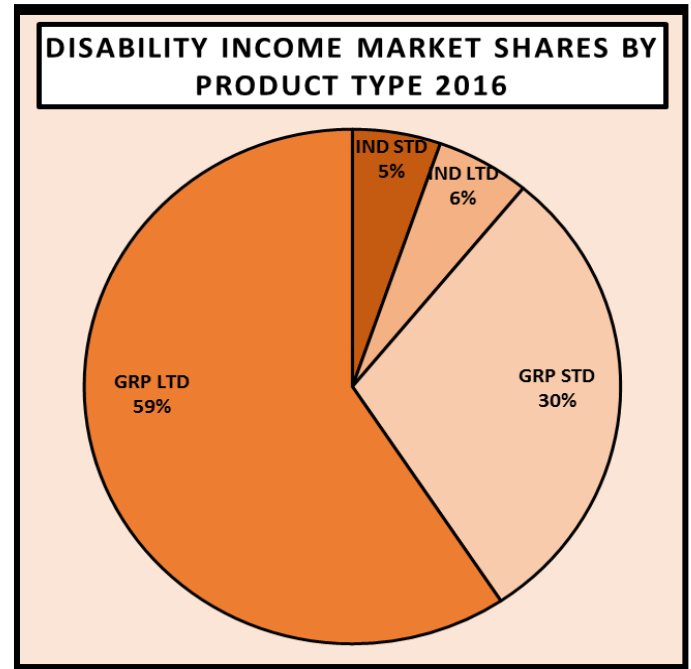
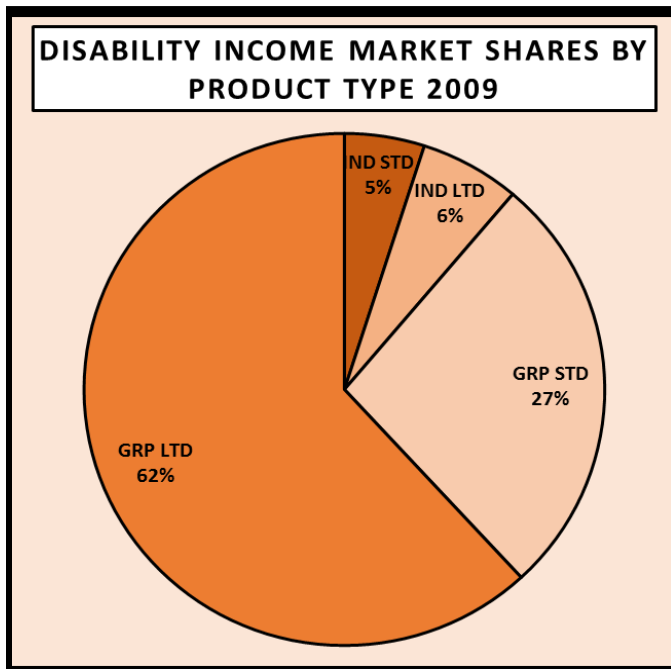
- 182,133 (11%) were covered by individual DI policies, and
- 1,445,174 (89%) were covered by group DI policies.

As of December 31, 2016, a total of 1,719,384 Massachusetts persons held DI plans –

- 188,964 (11%) were covered by individual DI policies, and
- 1,530,420 (89%) persons were covered by group DI policies.

	<u>2009</u>	<u>2016</u>	<u>Change</u>
Number of Insureds			
<i>Subtotal of Individual Policies</i>	182,133	188,964	+ 6,831
<i>Subtotal of Group Policies</i>	<u>1,445,174</u>	<u>1,530,420</u>	<u>+ 85,246</u>
<i>Total</i>	1,627,307	1,719,384	+ 92,077

Between 2009 and 2016, the number of Massachusetts persons with DI coverage grew by 92,077 (5.7%).



⁵ Division of Insurance, *2010 Report of Disability Income Insurance in Massachusetts: Results of a 2009 Examination*, p. 7, available at <http://www.mass.gov/ocabr/government/oca-agencies/doi-lp/2010-long-term-care.html>.

Chapter 133 and the Working Group on Gender Equity in Disability Policies

Section 73 of Chapter 133 of the Acts of 2016 requires the following:

“There shall be a working group on gender equity in disability policies. The working group shall consist of the following members or their designees: the commissioner of insurance who shall serve as chair; the undersecretary of consumer affairs; the house and senate chairs of the joint committee on financial services; the house and senate chairs of the joint committee on consumer protection and professional licensure; the attorney general; the chair of the permanent commission on the status of women; the president of the Women’s Bar Association of Massachusetts; a representative from the Life Insurance Association of Massachusetts and 2 persons to be appointed by the governor, 1 of whom shall represent the insurance industry and 1 of whom shall be from the permanent commission on the status of women. Not later than 30 days after the effective date of this act, the working group shall convene to study the costs and benefits of prohibiting insurance companies in the commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any other terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person’s race, color, religion, sex, marital status, or national origin. The working group shall submit its findings, along with any legislative recommendations, to the clerks of the senate and house of representatives not later than December 31, 2016. The division of insurance shall provide any resources and assistance necessary in developing the cost-benefit analysis of the working group.”

Working Group on Gender Equity in Disability Policies

Insurance Commissioner Daniel Judson convened the first meeting of the working group on October 24, 2016. The following individuals were identified to represent the organizations identified in Section 173:

Chairman Daniel R. Judson, Commissioner of the Division of Insurance
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz, House Chair of the Joint Committee on Financial Services
Ryan Gelman Esq., designee of Massachusetts State Senator Jamie Eldridge, Senate Chair of the Joint Committee on Financial Services
Catherine “Cat” Bunker, designee of Massachusetts House Representative Jennifer Benson, House Chair of the Joint Committee on Consumer Protection and Professional Licensure
Victoria Budson, Chairperson of Permanent Commission on the Status of Women
Steven Clayburn, Governor appointee from the American Council of Life Insurers
Carolina Avellaneda, Governor appointee from the Permanent Commission on the Status of Women
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Ann Morse Hartner, designee of President of the Women’s Bar Association of Massachusetts
Jenny Erickson, Senior Vice-President/General Counsel, Life Insurance Association of MA, Inc.
Erin Riley, Esq., designee of Massachusetts State Senator Barbara L’Italien, Senate Chair of the Joint Committee on Consumer Protection and Professional Licensure

In subsequent meetings,

Kevin Beagan replaced Insurance Commissioner Judson to serve as chair as the designee of Gary Anderson, Commissioner of Insurance
Emma Friend replaced Erin Riley as the designee of Massachusetts State Senator Barbara L’Italien
Margot Parrot replaced Victoria Budson as Chairperson of the Permanent Commission on the Status of Women
Maeve Kidney replaced Catherine Bunker as the designee of Massachusetts House Representative Tackey Chan

Working Group on Gender Equity in Disability Policies

Sara Schnorr replaced Carolina Avellaneda as the Governor's appointee from the Permanent Commission on the Status of Women

Joanne Campo was named as the designee of Undersecretary of the Office of Consumer Affairs and Business Regulation

The working group met in open sessions that took place on the following dates:

October 24, 2016

December 1, 2016

July 24, 2017

October 20, 2017

November 14, 2017

December 15, 2017 and

January 11, 2018.

As noted previously, the Working Group was established to study the costs and benefits of prohibiting insurance companies in the Commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any other terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person's race, color, religion, sex, marital status, or national origin. In considering the charge, the Division was asked to do research on all existing statutes and rules and present them for the consideration of the Working Group.

It became apparent to the members of the Working Group at the December 1, 2016 meeting⁶ that it would not be able to complete a report by the December 31, 2016 timeline set forth in Chapter 133. Commissioner Judson sent letters (dated December 29, 2016)⁷ to the clerks of the Senate and House of Representatives stating that the Working Group will not complete its work by the deadline and requested an extension. On July 24, 2017, the Working Group reconvened to plan for the completion of the report. The remaining meetings were devoted to presentations of both an actuarial and policy perspective for the group to review and discuss as they considered possible recommendations.

The next section of this report presents information collected by the Division about existing statutes and regulations pertaining to the use of gender in insurance rating practices. Following the Division's summary, materials are presented as part of the actuarial and policy presentations.

Division of Insurance Research

⁶ Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on December 1, 2016 as Approved at the Meeting (see Appendix B).

⁷ See Appendix I.

Working Group on Gender Equity in Disability Policies

Massachusetts Insurance Rules Impacting Disability Insurance

Under Massachusetts law, disability income policies are a type of coverage within the accident and sickness line of coverages⁸. No company may offer a disability income policy within Massachusetts unless that company has been appropriately licensed by the Division for the offer of accident and sickness products.

Individual Disability Income Policies

Individual disability income policies are not issued on a guaranteed basis to any applicant. Individual insureds are expected to apply for coverage and usually are required to submit medical and income information that will be evaluated by an insurance company per its underwriting criteria.

M.G.L. c. 175, § 24A⁹ states:

“No company authorized to issue policies of accident or sickness insurance, policies providing coverage against disability from injury or disease, or policies of life or endowment insurance shall refuse to issue such a policy or limit the coverages normally contained therein with respect to the risk of such loss solely because of the sex of the insured.”

Subsection 2(a) of M.G.L. c. 175, § 108¹⁰ states:

“No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this commonwealth: until a copy of the policy and the table of rates or manual of risks of the company has been on file with the commissioner for at least thirty days, unless before the expiration of said thirty days the commissioner shall have approved the policy in writing; nor if the commissioner notifies the company in writing that in his opinion the form of said policy does not comply with the laws of the commonwealth, specifying the reasons for his opinion, provided that such action of the commissioner shall be subject to review by the supreme judicial court.”

The Division promulgated 211 CMR 42.00¹¹ for the regulation of individual accident and sickness insurance forms and rates. In particular, 211 CMR 42.05(2) states:

“All rate filings shall at least explain formulas used to derive rates, expected claim costs, assumptions regarding mortality, morbidity and lapse rates, and the detailed commission schedule and anticipated administrative expenses associated with the policy. In order to substantiate rate revision filings, filings must maintain experience for that policy form, may combine experience for different policy forms where the coverage is substantially the same, and must demonstrate that the carrier is using fund accounting for guaranteed renewable policies to reflect premiums, investment income, losses, expenses, and provisions for reserves specific to that policy form. Any rates filed, whether initial or revised, will be disapproved unless the aggregate anticipated loss ratio for the entire period for which rates are computed to provide coverage meets the following standards, provided that “aggregate lifetime loss ratio” means the present value at the form’s inception of all expected future benefits under the form divided by the present value at the form’s inception of all future premiums to be received under the form; and:

(a) for purposes of 211 CMR 42.06(2)(b) and 42.06(2)(c) optionally renewable means renewal is at the option of the insurance company; conditionally renewable means renewal can be declined by the insurance company only for stated reasons other than deterioration of health; guaranteed renewable means renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on

⁸ According to M.G.L. c. 175, §108. 1. The term "policy of accident and sickness insurance" as used herein includes any policy or contract covering the kind or kinds of insurance described in subdivisions (a) and (d) of the sixth paragraph of section forty-seven.

⁹ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section24A>.

¹⁰ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section108>.

¹¹ See <https://www.mass.gov/files/documents/2016/07/xv/211-42.pdf>.

Working Group on Gender Equity in Disability Policies

a class basis; and guaranteed rate means renewal cannot be declined nor can rates be revised by the insurance company;

...

(c) for loss of income policies, including business buyout and business expense policies, the actuarial memorandum may be limited to lifetime loss ratios as certified by an actuary and the minimum loss ratio shall be:

1. 60% for optionally renewable policies;
2. 55% for conditionally renewable policies;
3. 50% for guaranteed renewable policies; and
4. 45% for guaranteed rate policies.

...

(h) for policies under 211 CMR 42.06(2)(b) or 42.06(2)(c), the minimum loss ratio shall be five percentage points less than those given if the expected average annual premium for the policy, including riders and endorsements, is less than \$200.”

M.G.L. c. 175, § 108 8.¹² also states in part that:

“A. The commissioner may, within thirty days after the filing of a copy or form of such a policy, disapprove such form of policy if the benefits provided therein are unreasonable in relation to the premium charged, or if it contains any provision which is unjust, unfair, inequitable, misleading or deceptive, or which encourages misrepresentation as to such policy. If the commissioner shall notify the insurer which has filed any such form that it does not comply with the provisions of this section it shall be unlawful thereafter for such insurer to issue such form or use it in connection with any policy. In such notice the commissioner shall specify the reasons for his disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer.

B. The commissioner may at any time after a hearing, of which not less than twenty days written notice shall have been given to the insurer, withdraw his approval of any such form on any of the grounds stated in paragraph A of this subdivision. It shall be unlawful for the insurer to issue such form or use it in connection with any policy after the effective date of such withdrawal of approval. The notice of any such hearing shall specify the matters to be considered at such hearing and any decision affirming disapproval or directing withdrawal of approval under this section shall be in writing and shall specify the reasons therefor.

C. Any person or company aggrieved by any action, order, finding or decision of the commissioner under paragraph B of this subdivision may, within twenty days from the filing of a memorandum thereof in his office, file a petition in the supreme judicial court for the county of Suffolk for a review of such action, order, finding or decision. The action, order, finding or decision of the commissioner shall remain in full force and effect pending the final decision of the court unless the court or a justice thereof after notice to the commissioner shall by a special order otherwise direct. The court shall have jurisdiction in equity to modify, amend, annul, review or affirm such action, order, finding or decision, shall review all questions in accordance with the standards for review provided in paragraph (8) of section fourteen of chapter thirty A and may make any appropriate order or decree.”

It should also be noted that there are provisions associated with unfair and deceptive practices within M.G.L. c. 176D, § 3¹³ which define unfair methods of competition and unfair or deceptive acts of practices in the business of insurance including:

“(7) Unfair discrimination: (a) making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or (b) making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.”

¹² See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section108>.

¹³ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter176d>.

Working Group on Gender Equity in Disability Policies

Group Disability Income Policies

M.G.L. c. 175, § 36B¹⁴ states:

“Any domestic company which is authorized to transact business under subdivisions (a) and (d) of clause Sixth of section forty-seven may establish a plan to provide such insurance benefits for its employees. Any such plan may provide for contributions by the employees. Such benefits may be provided in one or more general or blanket accident and health policies issued by such company, or with other benefits in one or more group life policies or group annuity contracts issued by such company, if authorized to issue any such policy or contract, or by any other company so authorized, or in any other manner that the directors of such company may prescribe. If any such benefits are provided otherwise than by any such general or blanket or group policies, the company may in connection therewith establish special funds for the purpose of financing such benefits. Section one hundred and ten A shall apply to any benefits granted under the authority of this section.”

Federal Statute and Rules Associated with Employment-Based Benefits

One federal statute has had a significant impact on insurers' ability to classify insureds. Title VII of the Civil Rights Act of 1964 (Title VII)¹⁵ makes it unlawful for an employer "to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." Title VII required equal treatment of men and women in employer-sponsored insurance plans due to two U.S. Supreme Court cases. *City of Los Angeles Department of Water and Power v. Manhart*, 435 U.S. 702 (1978) made it illegal to have unequal contributions to pension plans under which benefits were equal. *Arizona Governing Committee v. Norris*, 103 U.S. 3492 (1983) required benefits stemming from contributions to pension and annuity plans should be equal for men and women.

It is also noted within 29 CFR § 1604, the Equal Employment Opportunity Commission's regulation associated with equal access to employment-sponsored benefits that:

“(a) “Fringe benefits,” as used herein, includes medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions, and privileges of employment.

(b) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

...

(e) It shall not be a defense under title VII to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.”

It is further clearly identified within the EEOC Compliance Manual¹⁶ that

“Under Title VII, employers may not consider a person's race, color, sex (including pregnancy), national origin, or religion in determining:

- eligibility for;
- amount of; or
- charges for employee benefits.”

For this reason, employer group disability income products are rated/priced with a single rate for employees (the rate does not differ by gender).

Massachusetts Statutes for Using Gender Rating in Other Insurance Lines

¹⁴ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section36B>.

¹⁵ Civil Rights Act of 1964, § 703(a) (1), 42 U.S.C. § 2000e-2(a) (1) (1988).

¹⁶ Chapter 3 of the Equal Employment Commission Compliance Manual which can be found at <https://www.eeoc.gov/policy/docs/benefits.html#I.%20Introduction%20%28T7%29>.

Health Coverage

With the enactment of Chapter 58 of the Acts of 1996¹⁷, Massachusetts eliminated the use of gender in the development of premiums for coverage offered in the individual¹⁸ and small group¹⁹ health insurance markets. These laws prohibiting the use of gender from the development of individual/small group premiums were strengthened by the passage of the federal Patient Protection and Affordable Care Act (ACA) which prevented the use of gender in the development of health rating beginning in 2014.

Private Passenger Automobile Insurance

M.G.L. c. 175E, §4(d) states in part:

“For motor vehicle insurance rates, risks shall not be grouped by sex or marital status and shall not be grouped by age except to produce the reduction in rates for insureds age sixty-five years or older required by this clause.”

This is further clarified with 211 CMR 79.05(11), for premiums developed for private passenger automobile, wherein “rates based in whole or in part on any of the following factors shall be deemed to violate public policy and are subject to disapproval pursuant to 211 CMR 79.05(10): (a) sex.”

Annuity Products

With the enactment of Chapter 230 of the Acts of 2008²⁰, the Legislature created M.G.L. c. 175, §120F²¹ which states the following:

No company, officer or agent thereof shall make or permit a distinction, classification or discrimination, or otherwise recognize a difference in life expectancy, on the basis of race, color, religion, sex, marital status or national origin in the terms or conditions of a group or individual annuity, pure endowment contract or certificate covering residents of the commonwealth which is issued or delivered within or without the commonwealth on or after January 1, 2009, including, but not limited to, the amount or method of payment of premiums or rate charges or in the benefits payable. A violation of this section shall constitute an unfair method of competition or an unfair or deceptive act or practice in violation of chapter 176D.”

In all three of these lines of coverage (health, private passenger automobile, and annuity), the Division noted that it was unaware that a move to gender-neutral rating caused any lack in the availability of coverage.²² Especially with the most recently enacted change for annuity coverage, the Division noted that it continues to receive product filings from insurance companies for offer in the Commonwealth all of which were compliant with the appropriate gender-neutral rules.

¹⁷ See <https://malegislature.gov/Laws/SessionLaws/Acts/2006/Chapter58>.

¹⁸ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter176m> for the statute applicable to individual health products between 1997 and June 2007. The individual market was merged with the small market as of July 1, 2007 and the individual market has been subject to the rating rules of the small group market since that time.

¹⁹ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter176j> for the statute applicable to the small group market and beginning on July 1, 2017 to the individual market also.

²⁰ See <https://malegislature.gov/Laws/SessionLaws/Acts/2008/Chapter230>.

²¹ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section120F>.

²² Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on December 1, 2016 as Approved at the Meeting (see Appendix B).

Working Group on Gender Equity in Disability Policies

The Division also reported on one additional line which does not have any statutory provision restricting rating by gender, but for which insurance carriers do not file gender-distinct rates.

The statute for home insurance rate filings provides under M.G.L. c. 174A, §5²³ that:

“Rates shall be made in accordance with the following provisions:

1. Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated, and except in the case of special rates on other than inland marine risks where manual, minimum, class rates, rating schedules or rating plans are not readily available.
2. Rates shall not be excessive, inadequate or unfairly discriminatory.”

This statute does not include any specific prohibition on “gender” rating, but still home insurance companies do not use this within their rating variables because there is no actuarial correlation between the history of claims and the sex of policyholders.

²³ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter174A/Section5>.

Gender Rating Rules of Other Regulatory Bodies

A number of states have enacted laws to prohibit the use of gender in rating for some insurance products (e.g., medical insurance). Only the state of Montana, however, has enacted a law that applied this prohibition to all insurance products, including disability income products.

Montana

Montana is the only state to have passed comprehensive legislation, 49-2-309²⁴ in 1983 that bans the use of gender in setting rates for any insurance product issued in Montana. This would apply to disability income products and prohibits the use of gender in determining any disability income premiums. As noted in this section:

- (1) “It is an unlawful discriminatory practice for a financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.
- (2) This section does not apply to any insurance policy, plan, or coverage or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.”

NAIC Model Regulation

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight.

Other than with the development of model laws following the enactment of the ACA for small group and individual health insurance products, the NAIC has not developed any model laws/regulations that restrict the use of gender in the rating of insurance products.

Interstate Insurance Product Regulation Commission (IIPRC) ²⁵

In May 2006, the Interstate Insurance Product Regulation Commission (IIPRC) was formed. The IIPRC has the jurisdiction to accept, review and approve filings for individual and group life insurance, annuity, disability income and long-term care insurance products. Massachusetts is one of the original 26 member states of the IIPRC²⁶, and it accepts that products reviewed by the IIPRC will be permitted to be offered in Massachusetts. It is important to note that changes made to Massachusetts law regarding product standards do not impact IIPRC products unless IIPRC standards change similarly.

Regulators and industry representatives finalized standards for disability income products in 2012. The IIPRC standards (IIPRC-DI-I-H11-RATE²⁷ and IIPRC-DI-I-H11-RATECH²⁸) are as follows and do not prevent the use of gender in the development of rates:

“The Interstate Insurance Product Regulation Commission will review individual disability income initial rate filing (rate schedule filings for individual disability income insurance policies) and may disapprove any initial rate filing (rate schedule revision) for any of the following reasons:

²⁴ See <http://leg.mt.gov/bills/mca/49/2/49-2-309.htm>

²⁵ See <http://www.in.gov/legislative/interim/committee/minutes/ICINEAO.pdf>.

²⁶ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175k>.

²⁷ See http://www.insurancecompact.org/us_checklists/us_checklist_iiprc_di_g_h11_rate.pdf.

²⁸ See http://www.insurancecompact.org/rulemaking_records/120111_stds_for_indiv_disability_income_ins_policies_rate_revisions.pdf

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- (1) The Premiums charged are unreasonable in relation to the benefits provided, or are excessive, inadequate, or unfairly discriminatory;
- (2) The provisions permit the insurance company to vary premiums for insureds, and the variances are not based upon sound underwriting and sound actuarial principles reasonably related to actual or reasonably anticipated loss experience or expenses;
- (3) The Premiums unfairly discriminate between individuals of the same actuarial risk class, or between risks of essentially the same degree of hazard;
- (4) The Premiums discriminate on the basis of race, color, creed, national origin, or sexual orientation;
- (5) The Premiums unfairly discriminate on the basis of marital status or civil union status in states where civil union relationships are recognized; however, this does not prohibit actuarially justified spousal, couple, partner, or civil union discounts; or
- (6) The rate filing (rate schedule revision filing) fails to comply with the standards.”

Laws Prohibiting Discrimination by Sex in Massachusetts

Equal Rights Amendment to Massachusetts Constitution

In November 1976, Massachusetts voters passed a ballot measure to amend the Massachusetts Constitution to guarantee that equality would not be denied or abridged because of a person's sex.

Article CVI of the Massachusetts Constitution²⁹ notes:

“All people are born free and equal and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness. Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin.”

Other Anti-Discrimination Statutes

The Massachusetts Attorney General has broad authority under Massachusetts Law to enforce consumer protections standards within the Commonwealth. M.G.L. c. 93, § 102(a)³⁰ states:

“All persons within the commonwealth, regardless of sex, race, color, creed or national origin, shall have, except as is otherwise provided or permitted by law, the same rights enjoyed by white male citizens, to make and enforce contracts, to inherit, purchase, to lease, sell, hold and convey real and personal property, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.”

Court cases about gender-neutral rating

In 1991, the Massachusetts Supreme Judicial Court ruled in *Telles vs. Commissioner of Insurance*³¹ regarding a 1988 regulation the Division had promulgated that required the use of unisex rating in the development of life insurance premiums. In that case, the Court held that the commissioner did not have the authority to promulgate a regulation requiring unisex rates in life insurance, as the authority was not created by statute and the regulation conflicts with several statutes that expressly permit risk classification by gender, including M.G.L. c. 175, §§ 120, 144; c. 176D, § 3 (7). The following was noted in the decision:

“The commissioner's authority to issue regulations is delegated by the Legislature and does not derive from the State Constitution. The Legislature has explicitly denied the commissioner the authority to issue the challenged regulation [requiring the use of unisex rating for life insurance products]. It is the legislative, not the executive, branch which is given the power to make laws. Whatever the merits of the regulations may be, the doctrine of separation of powers embodied in Article 30 of the Massachusetts Declaration of Rights requires that an administrative agency receive a proper delegation of authority before promulgating rules of general application. An administrative body does not have any inherent authority to issue regulations.”

The Court did not rule on the constitutionality of the existing statutes but only on the commissioner's authority to issue the regulations.

²⁹ See <https://malegislature.gov/Laws/Constitution>.

³⁰ See <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter93/Section102>.

³¹ 410 Mass, 560 (1991), 574 N.E. 2d 359; see <https://www.courtlistener.com/opinion/2238923/telles-v-commissioner-of-insurance/>.

Information Considered in Working Group Meetings

Presentation of Tasha S. Khan, FSA, MAAA, Milliman, Inc.³²

During this presentation, Ms. Khan identified herself as a principal and consulting actuary from Milliman, Inc. with a focus on disability income (DI) insurance for over 13 years. Milliman, Inc. assists various insurance companies, agencies and employers with DI insurance related matters.

Ms. Khan began the presentation stating a general overview of DI insurance, stating that it exists to “protect working people from losing income as a result of disability,” and individuals can use the money earned for any essential living expenses. Ms. Khan explained the elimination period, benefit period and monthly indemnity period as they relate to DI insurance. Mr. Beagan then asked if there are any benefit periods for less than up to age 65, to which Ms. Khan responded that there are for any number of years, which for example if an individual has a permanent disability, they can use a five-year term policy on top of earned Social Security benefits.

Ms. Khan then continued, stating that most DI insurance policies are “guaranteed renewable,” which allows the insurance company to change premiums for a class of policyholders if the experience is different from the assumed experience, or “noncancelable,” which means that the premiums cannot be changed for the life of the policy. Mr. Beagan then inquired if step rating of premiums is common in DI insurance, to which Ms. Khan informed that it is not common because 80 percent of the market is noncancelable products.

Ms. Khan then discussed pricing methods and rating variables for premiums, which are selected based on their correlation with risk. Working Group member Margot Parrot then inquired if there are certain “forbidden” variables for when actuaries determine rates. Ms. Khan stated that a variable such as race is forbidden as subject to rate setting laws. Mr. Beagan then stated that there is a statute available that could be distributed, which discusses rate setting variables and rate setting as a whole. Ms. Khan then continued to discuss pricing methods for DI insurance, and how the claim costs are developed based on combinations of these rating variables and then increased to cover additional administrative and varying other expenses.

Ms. Khan continued her discussion of rate setting and pricing methods by explaining adverse selection, where those with a higher risk are more likely to purchase insurance. Ms. Khan provided an example for the working group relating to fire insurance where a town has straw houses or brick houses. The individuals in straw houses would be at higher risk for a fire, so they would pay more. But, if the straw and brick houses were rated equally, only straw houses would buy the insurance because they would be getting a better deal with a higher risk. Ms. Khan then related this back to gender, stating that gender is a rating variable because of costs of risk, and a similar situation would happen if we rated gender equally.

Ms. Khan provided a table of “2013 IDIVT Annual Claim Costs per \$1,000 Monthly Benefit 90 day EP, To Age 65, Occ Class 1, 3% Interest,” and a chart titled “2013 IDIVT Annual Claim Costs per \$1,000 90-day EP, To Age 65, Occ Class 1” which showed industry data from 1990 to 2007 in

³² Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on October 20, 2017 as Approved at the Meeting (see Appendix D).

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expected claim costs for men and women. WG member Jenny Erickson asked Ms. Khan what class 1 entails, to which Ms. Khan informed Ms. Erickson that class 1 workers are white collar workers.

Working Group member Shane Blundell then inquired if individuals have to show a medical record when stating a claim. Ms. Khan replied to Mr. Blundell stating that different policies have different definitions so it would depend on the individual case and policy itself. Mr. Blundell followed up asking if these companies track denial rates, to which Ms. Khan stated that there is not a lot of information available regarding denials, however, there is an appeal process. Mr. Blundell then followed up and asked Ms. Khan why women tend to file more for DI insurance, to which Ms. Khan stated that there is a higher rate of disability risk in women, excluding pregnancy (unless it involves complications).

Mr. Beagan then continued the discussion and asked if there are more types of medical conditions for women, or are there more claims from women, do women get more money or are women insured for longer periods of time. Ms. Khan responded to Mr. Beagan's inquiry, stating that these rates have to do with the duration of the claims submitted, and the fact that women tend to live longer and therefore show more claims. Mr. Beagan then followed up by asking if rate setting solely includes incidence, to which Ms. Khan confirmed that it is incidence and duration of claims, and that mortality rates tend to be lower for women than they are for men.

Working Group member Ann Hartner followed up on this inquiry, asking if there are medical reasons for long duration claims that women are more prone to than men. Ms. Khan then stated in response to Ms. Hartner that when looking at a higher level women experience more rates of disability in a type of disability than their male counterparts.

The Working Group then granted Representative Ruth Balser permission to ask a question, to which Representative Balser asked if it is possible to put a human face on DI claims, or are women just more likely to do paperwork for these claims than their male counterparts. Ms. Khan then responded to Representative Balser's question saying that actuaries see a dynamic of women having more incidence of these diseases but knowing the actual medical reasons behind it are beyond her expertise as an actuary. Actuaries find that the difference between women and men is that females have higher claim costs. Working Group member Jenny Erickson then followed up Representative Balser's question by asking if there is something specific to women that drives their higher claim costs, to which Ms. Khan stated that the fact remains that females as a whole are more expensive than males and that she does not know the specific factors that drive female costs to be higher.

Ms. Khan then proceeded to lead a discussion on unisex pricing, and detailed that when developing premiums in a unisex rated industry, the organizations would have to develop separate premiums for both females and males and then average them to create a unisex premium rate. Ms. Khan then stated that this brings up an issue where insurance companies will not know exactly how many males or females will purchase individual policies.

Working Group member Margot Parrot then asked Ms. Khan why insurance companies are unable to predict the mix of male and female purchasers. Ms. Khan responded to Ms. Parrot's inquiry, saying that in a group market there is little choice for individuals, where they have one policy to choose from and that is it, in the individual market there are multiple options so it becomes harder to predict what the number will be.

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Ms. Parrot then followed up stating that at some point the rates of individuals choosing plans will hit an equilibrium, to which Ms. Khan followed up saying that there are lots of cycles and change and that would require a lot of guessing. If there is a noncancelable plan priced at a 50:50 male to female ratio, and 60% females choose the plan, the plan would be underpriced and the company could falter. Increasing the price of the plan would only cause adverse selection because if a plan is cheaper, people will choose that plan over the more expensive option, so it is important to be prudent.

Working Group member Ann Hartner then asked if most DI insurance policies have premium suspension, which Ms. Khan replied that actuaries try to price these policies as close as possible because the insurance companies need to be competitive when figuring their gender distributions and whoever makes the lowest assumption will be the cheapest.

Presentation of Victoria Budson, Executive Director of the Women and Public Policy Program (WAPPP) at the Harvard Kennedy School of Government and former member of the Working Group, and Shane Blundell, Designee of Attorney General of the Commonwealth Maura Healey³³

Presenter Victoria Budson thanked Mr. Beagan and the rest of the WG members for the opportunity to present. Ms. Budson identified this policy-focused presentation as an opportunity to bring up other points related to the issue of gender inequity in DI insurance. Ms. Budson identified that the Equal Rights Amendment in Massachusetts states that there shall be no discrimination based on sex and that various insurance products such as health insurance have no rating based on gender. Ms. Budson then noted a federal standard that prevents gender-distinct rating for group DI insurance, thereby preventing employer-based insurance from having different rates based on gender.

Ms. Budson claimed that Massachusetts has not cleaned up a gender rating loophole in DI insurance in the individual market. Ms. Budson stated that the outcome of this loophole is that women purchasing individual DI coverage may be charged between 23 and 61 percent more than men are charged, which is discriminatory based on equal rights law. Ms. Budson noted that the majority of Massachusetts citizens are female, yet they are paid less than their male counterparts and are required to pay more for individual DI insurance, adding to the financial stress impacting women. Ms. Budson suggested that this issue needs to be addressed and that Massachusetts should reduce the relative cost that women are forced to pay, which will increase the number of women who will be able to afford to be protected by individual DI coverage.

Ms. Budson noted that she was asked to present to the group because of her background in gender discrimination policy. She acknowledged that although the majority of those buying coverage do so through the group market, the 11 percent buying through the individual market represent a significant number of people and deserve a gender-blind rate. Ms. Budson then urged the WG to look at this issue based on the policy impact gender-based rating has on women's ability to purchase coverage.

Working Group member Shane Blundell thanked Ms. Budson for her presentation and her point that gender-specific rating should be eliminated in the individual DI insurance market. Mr. Blundell stated that for many individuals, DI insurance is a safety net that allows them to replace income

³³ Approved Minutes from the Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on November 14, 2017 as Approved at the Meeting (see Appendix F).

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when they are disabled. In Massachusetts alone there have been 300,000 jobs added in the last decade, which means that there are more people working who may need to purchase DI products.

Mr. Blundell pointed out that for many people, particularly women, affordability is a substantial barrier to obtaining necessary DI coverage. It can cost up to 60 percent more for women to purchase DI products when compared to the cost to cover men. In addition, Mr. Blundell noted that 46 percent of women in Massachusetts are the sole breadwinners in their families, and another 20 percent of women contributed between one-quarter to one-half of their family's earnings.

Mr. Blundell highlighted Ms. Budson's points that there are economic disparities in the workplace and that women on average make 84 percent of the salary of their male counterparts. This income disparity combined with the higher cost of DI coverage creates even more economic stress for women looking to purchase DI coverage to safeguard their family income. Mr. Blundell noted that a 27-year-old nurse could pay 50 percent more on a DI insurance policy than her male counterpart. In addition, he noted that since 75 percent of working women may eventually be pregnant, and many may face complications, the cost may prevent many from purchasing and benefiting from these products.

Mr. Blundell noted that he appreciates the industry's time, effort, and diligence on this issue. He suggested that with this proposed change in the law, premiums will still track reasonable estimates of losses. It simply asks insurers to track those losses from a larger group.

He said that Massachusetts has led the way in ensuring gender fairness in insurance pricing. In health insurance, auto insurance, homeowners' insurance -- and as recently as 2008 for annuities -- we have eliminated sex-based price disparities because we consider them inappropriate as a policy matter, even though they reflect the risk of loss, and, thus, may be viewed as actuarially correct.

Mr. Blundell noted that men, particularly young men, have more automobile accidents and higher losses than women, but we do not permit auto insurers in Massachusetts to rate by gender. Nor do we permit such factors as race or religion to be used to rate insurance in Massachusetts, even where these factors correlate with insurance claims.

Mr. Blundell said that we do this because we believe rating fairness and equity are more important social goals than actuarial correctness. When rates are "blended" for males and females, insurers overall will receive a fair price, and consumers will pay a fair price.

Mr. Blundell reminded the working group that that disability insurance products offered through employers -- and regulated by federal law -- must already be gender neutral. We should focus on establishing gender-neutral premiums for the 11 percent of individuals purchasing DI insurance where insurers retain the ability to use gender rating for disability insurance products.

Mr. Blundell then stated that recently, after a collaborative effort, we made critical updates to the Equal Pay Act to reflect our modern economy and make it one of the most comprehensive in the country. We know that women play a critical role in our economy.

He concluded by saying we must continue to lead on issues of workplace equity. Prohibiting the use of sex as a rating factor in the individual disability insurance market is an important next step. It is a matter of economic security for Massachusetts women and their families. After the conclusion

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of the presentations from Victoria Budson and Shane Blundell, Mr. Beagan thanked them for their presentations and asked if WG members had follow-up questions or comments.

Ms. Hartner asked Ms. Budson to officially state her job title for the record. Ms. Budson stated that she is a founder and the Executive Director of the Women and Public Policy Program (WAPPP) at the Harvard Kennedy School of Government.

Ms. Parrot asked Ms. Budson if she could address any other state's efforts towards promoting gender equality in rating DI insurance. Ms. Budson stated that she did not know of precedent in other states, but WG member Jenny Erickson stated that the WG previously discussed that the only state which has made strides is Montana. Mr. Beagan added that Montana has applied gender-neutral rating to all its lines of insurance and that he is not aware that such rule led to a drying-up of the marketplace for DI insurance products.

Ms. Schnorr asked Ms. Budson if there are other kinds of insurance that are rated based on gender, to which Ms. Budson replied that life insurance rates are based on gender. Ms. Schnorr also asked what laws prevent gender being used as a rating factor. Ms. Erickson indicated that federal Title VII would not allow gender rating for employees, as benefits and rates are to be the same for similarly-situated employees. Mr. Beagan added that gender was used as a rating factor in health insurance until 1996 and that he is not aware of the rules relating to auto insurance pre-1994. Mr. Beagan also noted that Massachusetts enacted statutory provisions requiring gender neutrality in rating annuities in the mid-2000s and that he is unaware of any availability problem in Massachusetts' market for annuities.

Ms. Schnorr noted that she understands that actuaries establish risk categories in order to understand the differing risks for various products. She added that she learned in law school that insurance is based on a pooling of risk and that she finds it odd that individual DI products do not appear to share risk in a pool requiring gender-neutral rating.

Analysis and Recommendations

The Commonwealth has a responsibility to establish appropriate consumer protections so that consumers are informed of the features of products being offered and the implications of coverage choices. The Division also has a responsibility to promote and enforce rules and monitor insurance companies' actions to ensure that needed coverage remains available while upholding all appropriate consumer protections. Consumers have generally bought disability income coverage as part of a comprehensive financial planning strategy.

Currently, individual disability income products cost substantially more when purchased by women than by similarly situated men. Despite undisputed factual evidence that female claims costs are substantially higher than those of men which is the primary basis for the higher female premiums, this creates availability problems for those women looking to buy individual products who may find the product unaffordable and who forgo coverage.

Consideration of Recommendations

Two motions were considered by the Working Group members.

First, the Working Group considered the following motion made by Margot Parrot as seconded by Ann Morse Hartner:

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

When considered, six Working Group members voted in favor of the motion, two voted opposed and four abstained from voting. The following reflects the vote on the motion:

Name	Vote
Kevin Beagan	A
Shane Blundell	Y
Joanne Campo	A
Steven Clayburn	N
Jenny Erickson	N
Emma Friend	Y
Ryan Gelman	Y
Ann Morse Hartner	Y
Maeve Kidney	A
Margot Parrot	Y
Sara Schnorr	Y
Timothy Sheridan	A

Second, the Working Group considered the following motion made by Jenny Erickson as seconded by Steven Clayburn:

Working Group on Gender Equity in Disability Policies

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court not prohibit gender rating in individual disability policies issued in the Commonwealth.

When considered, two Working Group members voted in favor of the motion, six voted opposed and four abstained from voting. The following reflects the vote on the motion:

Name	Vote
Kevin Beagan	A
Shane Blundell	N
Joanne Campo	A
Steven Clayburn	Y
Jenny Erickson	Y
Emma Friend	N
Ryan Gelman	N
Ann Morse Hartner	N
Maeve Kidney	A
Margot Parrot	N
Sara Schnorr	N
Timothy Sheridan	A

Therefore, it is the plurality recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

**Plurality Opinion presented by Margot Parrot,
Joined by Ann Morse Hartner, Shane Blundell, Ryan Gelman, Emma Friend and Sara Schnorr**

FINDINGS:

1. The Equal Rights Amendment to the Massachusetts Constitution prohibits discrimination based on sex.³⁴
2. Federal Law and Regulations prohibit discrimination based on sex in employer-based group disability insurance policies issued in Massachusetts.³⁵
3. Most other types of insurance products in Massachusetts are already issued on a gender-neutral basis, and in these products the move to gender-neutral rating has not caused any lack in the availability of coverage.³⁶

³⁴ Article CVI of the Massachusetts Constitution, <https://malegislature.gov/Laws/Constitution>.

³⁵ Civil Rights Act of 1964, § 703(a) (1), 42 U.S.C. § 2000e-2(a) (1) (1988). Also, 29 CFR § 1604, the Equal Employment Opportunity Commission's regulation.

³⁶ Approved Minutes from the Working Group on Gender Equity in Disability Policies for the Meeting Held on December 1, 2016 (see Appendix B).

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4. Women purchasing individual disability insurance coverage are currently charged 23-61 percent more than men are charged³⁷, which is a significant barrier to obtaining coverage³⁸ and discriminatory based on the equal rights law.³⁹
5. 46 percent of women are the sole breadwinners in their family⁴⁰, and another 20 percent of women contributed between one-quarter to one-half of their family's earnings⁴¹, while women on average make 84 percent of the salary of their male counterparts.
6. Disability insurance is a safety net for many individuals, allowing them to replace income when they are disabled.⁴²
7. Massachusetts recently updated its Equal Pay Act,⁴³ evidencing an intent of the General Court to move toward full gender equality in the workplace.
8. There is enough evidence of harm to women in gender-based pricing of individual disability insurance to conclude that the benefits of ending gender-based pricing outweigh the cost.

Therefore, it is our recommendation that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

Minority Opinion, presented by Jenny Erickson and Steven Clayburn

Section 173 of Chapter 133 of the Acts of 2016 requires that a report be submitted to the Legislature by the Working Group on Gender Equity in Disability Policies (the “Working Group”) to “study the costs and benefits of prohibiting insurance companies in the commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any other terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person’s race, color, religion, sex, marital status, or national origin. The working group shall submit its findings, along with any legislative recommendations, to the clerks of the senate and house of representatives.”

We oppose prohibiting companies from using gender in the insurance underwriting process. Underwriting is the method insurers use to analyze and classify the risk they are assuming and is fundamental to their business. Underwriting is based on probability, not certainty. Insurers use proven statistical evidence to calculate risk probabilities as accurately as possible. This allows them to set premiums which very closely match the underlying risk. Matching premiums as closely as possible to the underlying risk allows insurers to price products fairly and in a financially prudent manner.

³⁷ Testimony of Victoria Budson. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

³⁸ Testimony of Shane Blundell. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

³⁹ Testimony of Victoria Budson. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

⁴⁰ Testimony of Shane Blundell. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

⁴¹ Testimony of Victoria Budson. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

⁴² Testimony of Shane Blundell. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

⁴³ Testimony of Shane Blundell. See approved Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Nov.14, 2017 (see Appendix F).

Insurers obviously cannot predict with accuracy if or when a particular individual will become disabled, so they utilize actuarially proven information on group averages in order to price their products. There is overwhelming actuarial evidence to demonstrate that gender is a significant predictor of disability insurance claims cost. The global consulting firm Milliman, Inc. documented that women overall face a greater risk of disability than men across most age groups and that women between the ages of 35 and 65 are over 50% more likely than men to become disabled. More importantly, Milliman found that women's claims costs are higher than men's. Female claims costs are generally more than double male costs between ages 30-40, and over 50% higher for ages after that.

Gender is an actuarially justified risk classification criterion which is an intrinsic part of the disability insurance underwriting and pricing process. If insurers are not allowed to take into consideration the undisputed actuarial evidence on gender and disability costs, the result will be that men will be overcharged for their individual disability income insurance as compared to similarly situated women. Likewise, women will be undercharged. Rather than paying premiums closely tied to the risk they present, male premiums will subsidize female premiums. This isn't fair for anyone. Moreover, if individual disability insurance pricing switched to a gender-neutral basis, premiums overall will go up. Because disability insurance is a very price sensitive product, this increase may result in fewer Massachusetts residents buying coverage in the future.

Classifying risk in the underwriting process has long been recognized and endorsed by the Commonwealth, and is embodied in both Court opinion and in the General Laws. The need for insurance companies to classify risks, and price according to risk classification, has been specifically recognized by our Supreme Judicial Court in the cases of *LIAM v. Commissioner of Insurance*, 403 Mass 410 (1988) and *Telles v. Commissioner of Insurance*, 410 Mass 460 (1991). The Court in *LIAM v. Commissioner* stated that "the intended result of the (underwriting) process is that persons of substantially the same risk will be grouped together, paying the same premiums, and will not be subsidizing insureds who present a significantly greater hazard." The Court went further in *Telles v. Commissioner*, stating that "Chapter 175, Section 120, and M.G.L. c. 176D, Section 3(7), illustrate the principle that insureds must be treated in accordance with their risk classification." In addition, M.G.L. c. 176D, Section 3(7) deems it to be "unfair discrimination" and an unfair method of competition to treat individuals of the same class and of essentially the same hazard differently.

Montana is the only state which has taken the drastic step of ignoring the weight of statistical evidence by outlawing the use of gender in the underwriting of disability insurance (in fact, underwriting for all insurance products). Experience in Montana is not necessarily relevant, however, as the population of Montana is very small – only 15% of that of Massachusetts – and the resulting pool of insurance applicants may not be statistically significant. In addition, Montana enacted their law in 1985. Since then, many states have debated following a similar path, but all have decided against it.

Therefore, it is our recommendation that the Massachusetts General Court not prohibit gender rating in individual disability policies issued in the Commonwealth.

Appendices: Minutes of the Working Group

A: Minutes of the October 24, 2016 Meeting

B: Minutes of the December 1, 2016 Meeting

C: Minutes of the July 24, 2017 Meeting

D: Minutes of the October 20, 2017 Meeting

**E: *Discussion of Gender-Based Rating in the Individual Disability Market*,
Presented by Ms. Tasha S. Khan, FSA, MAAA, Milliman, Inc.
at the October 20, 2017 Meeting**

F: Minutes of the November 14, 2017 Meeting

G: Minutes of the December 15, 2017 Meeting

H: Minutes of the January 11, 2018 Meeting

**I: December 29, 2016 Letters from Commissioner Judson to the Clerks of the
Senate and House of Representatives**

Appendix A

Appendix A

Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Monday, October 24, 2016 as Approved at the Meeting Held on Thursday, December 1, 2016--- by a Vote of: Unanimous --.

October 24, 2016, Minutes of the Working Group on Gender Equity in Disability Policies
Held at Conference Room-1E, 1000 Washington Street, Boston, Massachusetts

Members Present:

Chairman Daniel R. Judson, Commissioner of the Division of Insurance
Representative Ruth B. Balsler, Member of the Massachusetts House of Representatives
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz
Ryan Gelman Esq., designee of Massachusetts State Senator Jamie Eldridge
Catherine “Cat” Bunker, designee of Massachusetts House Representative Jennifer Benson
Victoria Budson, Chairperson of Permanent Commission on the Status of Women
Steven Clayburn, Senior Actuary of the American Council of Life Insurers
Carolina Avellaneda, Secretary of Permanent Commission on the Status of Women
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Ann Hartner, designee of President of the Women’s Bar Association of Massachusetts

Members Not Attending:

Jenny Erickson, Senior Vice-President and General Counsel of the Life Insurance Association of
Massachusetts, Inc.
Erin Riley Esq., designee of Massachusetts State Senator Barbara L’Italien

Elected/Appointed Officials In Attendance:

State Representative Ruth B. Balsler, 12th Middlesex District

Attending to the Working Group on Gender Equity in Disability Policies:

Sean E. Powers, Manager for Special Projects and Research of the Division of Insurance

Call of Meeting to Order and Introduction by Chairman Judson:

The Chairman of the Working Group on Gender Equity in Disability Policies (Working Group) Daniel R. Judson called the meeting to order at 2:05PM. Chairman Judson introduced himself, informed the members of the Working Group that he was the Commissioner of the Division of Insurance, as such under Chapter 173 of the Acts of 2016, he was designated the Chairman of the Working Group. Chairman Judson informed the members of the Working Group that under Chapter 173 of the Acts of 2016 it was tasked with the following, “The Working Group shall convene to study the costs and benefits of prohibiting insurance companies in the Commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person’s race, color, religion, sex, marital status, or national origin.” Chairman Judson also informed the members that there would be a presentation about the Massachusetts Open Meeting Law, a discussion about the availability of data and research relevant to the work they were about to perform, and that the Working Group was required to

submit its findings along with any legislative recommendations to the clerks of the Massachusetts senate and house of representatives not later than December 31, 2016. He concluded by stating there would be a discussion about assigning staff members working at the Division of Insurance who would assist the Working Group, along with other resources that the Working Group members may be aware of or could become available to assist with the project.

Report on the Massachusetts Open Meeting Law:

Chairman Judson introduced Mindy Merow-Rubin, Special Counsel to the Commissioner of the Division of Insurance, who specialized in the Massachusetts Public Records laws and the Massachusetts Open Meeting Law (Open Meeting Law).

Attorney Merow-Rubin provided members of the Working Group with an overview of the Open Meeting Law in relationship to the work they would be performing. She informed the Working Group members that they should have received specific information about the Open Meeting Law, as required by Massachusetts state statute, as well as a certificate of receipt acknowledging that they received and reviewed the material. All of the Working Group members executed certificates acknowledging that they had received and reviewed the required materials. Chairman Judson concluded the presentation by explaining the importance of abiding by these laws.

Discussion of the Working Group's Scope of Work:

Chairman Judson requested the members of the Working Group to individually introduce themselves and provide some information about their backgrounds. Each member complied with the request and introduced himself/herself.

At the conclusion of the introductions, Chairman Judson described the background of the agency he oversees, the Division of Insurance (DOI), and announced that he would be pleased to provide the Working Group with any support staff and materials it needed. He informed the members of the Working Group that the DOI does not have an actuary who is well versed in the disability gender related issues that the Working Group would be examining. Consequently, the Working Group would need some additional actuarial support and he would work towards obtaining such resources.

Presentation by DOI Deputy Commissioner Kevin Beagan about Available Data and Research:

Chairman Judson introduced Kevin Beagan, DOI Deputy Commissioner of the Health Care Access Bureau. Deputy Commissioner Beagan passed out written information about the DOI which summarized some of the general daily responsibilities of his agency as well as his staff's responsibilities overseeing disability income insurance products. Deputy Commissioner Beagan informed the members of the Working Group that DOI Commissioner Judson requested that Mr. Beagan's staff coordinate a review and study of different product lines, something no other state, to date, had performed. Mr. Beagan declared, when the review was completed, a full report on the disability income insurance market will be made available to all of the members of the Working Group.

Deputy Commissioner Beagan explained that the DOI does not have the authority to review such products by group purchase and, therefore, that information will be unavailable in the report. Mr.

Beagan disclosed that his staff also has rate increases filed through them. He elaborated that his staff examines the reasonableness of any increases filed with the DOI by using actuarial data, reviewing protected classes within the rates, and ensuring that the rates are not established in a discriminatory manner. During this portion of the discussion, Deputy Commissioner Beagan made references to acronyms that are commonly used in the insurance industry.

Chairman Judson explained that like most industries doing business around the world the insurance industry is chock full of acronyms. He invited any member of the Working Group who was unfamiliar with an acronym to speak out, and volunteered to provide a complete description with background information about the acronym in question.

Mr. Chet Lewandowski of the DOI (SRB Health Policy) explained that gender in relationship to setting rates depends on the market. For example, insurance rates that are set are dependent on whether a product is sold in a group setting such as a workplace environment or an individual setting, such as personal disability income policies. He asserted that work environment rates are usually unisex based. Mr. Charles Lewandowski observed when rates are applied outside that type of environment, they sometimes can appear sexist.

Deputy Commissioner Beagan informed the Working Group that there are three different types of disability income products: group (usually work-site based), individual, and social. Social products would be those types of products offered through the Federal Government and various social security programs. Some states and jurisdictions provide disability insurance through taxation. He stated that he and his staff are open to exploring different avenues of research for additional information to present to the Working Group. Deputy Commissioner Beagan opined, that the Academy of Actuaries could be a significant resource for the Working Group.

Next Steps Needed to be Taken by the Working Group:

After these presentations, Chairman Judson asked for input from any members of the Working Group. Working Group member Steven Clayburn observed that in addition to the Academy of Actuaries there is another group called the Society of Actuaries, this group is working with the Academy of Actuaries to update information on disability income insurance. Mr. Clayburn explained that it is important to examine different variables when determining market prices. As an example, maternity among women as a group would most likely be a neutral factor that would lead to cost differences between males and females.

Working Group member Victoria Budson stated that we should not just be looking at what the actuarial data states and noted that the Equal Rights Act of 1988 precludes gender discrimination. Member Budson further stated that the “Women’s Commission” is the voice for women who may be experiencing discrimination throughout Massachusetts’ 351 cities and towns. She said the Working Group should decide if Massachusetts wishes to rate by gender and whether maternity should not be used an excuse for cost differences between men and women.

Working Group Member (Maria) Carolina Avellaneda stated she hoped the members would get data on the subject material from different avenues in order for the Working Group to make a sound recommendation and report. She expressed concern about the lack of access to group

disability actuarial data. Deputy Commissioner Beagan responded, by informing the members of the Working Group that even if that information could be obtained during a special examination the DOI would only be authorized under the law to release the information on a summary basis.

Chairman Judson informed the Working Group about some of the duties of the National Association of Insurance Commissioners (NAIC). Chairman Judson emphasized the importance of the DOI's responsibility of monitoring the solvency of the various insurance companies doing business in Massachusetts.

Massachusetts State Representative Ruth Balser inquired whether the state of Montana required gender neutral insurance. She recalled hearing that this was a requirement in Montana during testimony in support of the Working Group's statutory enactment. Deputy Commissioner Beagan suggested the Working Group reach out to such states and jurisdictions.

Working Group member Steven Clayburn added that Montana's various markets are almost exclusively unisex pricing aside from, possibly, Property and Casualty insurance. He also informed the members of the Working Group of an association known as LIMRIC that collects large amounts of insurance data.

Working Group Member Shane Blundell informed the members about the Attorney General's perspective in regards to the Working Group and its mission. He and Mr. Clayburn discussed various ways of making disability income insurance gender neutral.

Deputy Commissioner Beagan informed the members of the Working Group about the process of his staff's collecting and analyzing actuarial information for various product lines sold in Massachusetts.

Representative Balser informed the Working Group members that her office has additional information available that they compiled. They also have information from State House hearings with testimony from the actuaries and representatives from the life insurance industry. The information is based on age, gender, employment, and health history and offered to make the information available to the Working Group.

Deputy Commissioner Beagan suggested that the members of the Working Group look into social programs such as those in Rhode Island. If the Working Group felt it would be useful, Mr. Beagan offered to put together such a presentation.

Chairman Judson informed everyone in attendance that he and his staff have a list of data collection and research to begin working on for the Working Group's benefit. The DOI will meet with Representative Balser's staff to compile all available information and to provide it to the Working Group before proceeding any further. Chairman Judson concluded that Sean Powers, a staff member from DOI assigned to the Working Group, will organize the next meeting once the proper information and data had been collected.

Adjournment of the Board:

Chairman Judson moved for an adjournment of the meeting, whereupon by unanimous agreement of the Working Group members present the meeting was adjourned at 2:51 pm

List of Documents Presented at the Meeting

1. Documents provided by Attorney Mindy Merow Rubin: Open Meeting Law, G.L. c. 30A, §§ 18-25; Regulations promulgated by the Attorney General under G.L. c. 30A, § 25; educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b); and certificate certifying that the Work Group members have been provided with these materials and read them.
2. Documents provided by Deputy Commissioner Keven Beagan to the Working Group members which were: Temporary Disability Insurance (Terms and Definitions), 2016 State Disability Insurance (SDI) Schedules, 2011 Report of Disability Income Insurance in Massachusetts: Results of 2010 Examination, American Academy of Actuaries Statement Submitted for the Record by Shari Westerfield, FSA, MAAA: House Bill 3447 An Act Providing for Equitable Coverage in Disability Policies.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

Appendix B

Appendix B

Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Thursday, December 1st, 2016--- by a Vote of: -Unanimous-

December 1st, 2016, Minutes of the Working Group on Gender Equity in Disability Policies
Held at Conference Room-1E, 1000 Washington Street, Boston, Massachusetts

Members Present:

Chairman Daniel R. Judson, Commissioner of the Division of Insurance
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz
Ryan Gelman Esq., designee of Massachusetts State Senator Jamie Eldridge
Victoria Budson, Chairperson of Permanent Commission on the Status of Women
Steven Clayburn, Senior Actuary of the American Council of Life Insurers
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Ann Hartner, designee of President of the Women's Bar Association of Massachusetts
Erin Riley Esq., designee of Massachusetts State Senator Barbara L'Italien
Jenny Erickson, Senior Vice-President and General Counsel of the Life Insurance Association of Massachusetts, Inc.

Members Not Attending:

Catherine "Cat" Bunker, designee of Massachusetts House Representative Jennifer Benson
Carolina Avellaneda, Secretary of Permanent Commission on the Status of Women
John Chapman, Undersecretary of the Office of Consumer Affairs and Business Regulation

Elected/Appointed Officials In Attendance:

Representative Ruth B. Balsler, Member of the Massachusetts House of Representatives

DOI Representatives In Attendance:

Kevin Beagan, Deputy Commissioner, Health Care Access Bureau
Sheri Cullen, Director, Policy Form Review

Attending to the Working Group on Gender Equity in Disability Policies:

Sean E. Powers, Manager for Special Projects and Research of the Division of Insurance

Call of 2nd Meeting to Order by Chairman Judson:

The Chairman of the Disability Income Insurance Gender Equity Working Group (Working Group or WG) Daniel R. Judson called the meeting to order at 1:00PM. Commissioner Judson asked for a motion to approve the minutes from the meeting of October 24th with necessary corrections. He then introduced Sheri Cullen as an employee at the Massachusetts Division of Insurance (DOI) State Rating Bureau Policy Form Review and a guest speaker to the Working Group. Introductions were then made by members of the Working Group. Motion to approve correction to the minutes of the previous meeting was passed unanimously.

Reports on Information Gathered by the Division Staff since the Previous Meeting

Kevin Beagan recapped for those who were not in attendance at the previous meeting some of the information that was requested by members of the Working Group. Kevin Beagan explained

that the Division sought reports from other bodies and organizations to study the cost and benefits of prohibiting gender rating. At the Working Group meeting that was held on October 24, 2016, Massachusetts State Representative Ruth Balsler inquired whether the state of Montana required gender neutral insurance. She recalled hearing that this was a requirement in Montana during testimony in support of the Working Group's statutory enactment. Deputy Commissioner Beagan suggested the Working Group reach out to such states and jurisdictions. Working Group member Steven Clayburn added that Montana's various markets are almost exclusively unisex pricing aside from, possibly, Property and Casualty insurance. At that meeting Kevin Beagan agreed to reach out to officials in Montana to gather information.

Kevin Beagan reported that the Division has been in contact with the Montana Division of Insurance (Montana) and that the DOI needed to do more in understanding the Montana model. He discovered that Montana made changes to their laws in 1983. Kevin Beagan stated that upon speaking with Montana officials they found there is no one left that was employed during the time changes were made in the law. Any attempts to receive studies or reports from 1983 were unsuccessful. Mr. Beagan stated that Montana officials informed him unisex rates apply to all different types of insurance products within the state. He also stated that Montana does not have any actuarial records of their domestic companies' policies or rates as that is required in Massachusetts but not Montana. Kevin Beagan informed the members of the Working Group that the Division will continue to look for ways to reduce costs as the Division does not have the time and resources to conduct its own research into applying unisex rates in Massachusetts. Mr. Beagan then opened the presentation to questions, and answered several questions from members of the WG about his report and various potential actuarial studies. Mr. Beagan then reviewed the information provided in hand-outs which were distributed to the WG about related group policy plans. The information covered companies the Division had contacted which are domesticated in Montana, as well as different ways companies market related products within Montana, targeting their multi-life products. Kevin Beagan stated that the DOI would have to do more research to understand the full scope and that he would work closely with the task force to make that happen.

Report on the DOI's Research on the Interstate Compact

Kevin Beagan explained that there were many concerns raised by fifty different states examining different insurance products in a different manner. The interstate compact creates a system where insurance companies can either have their products approved through the marketing process of fifty separate insurance regulatory bodies or they can get their product approved for all fifty states through submitting a product to the interstate insurance compact (IIC or Compact). Kevin Beagan stated included in his report is information about the original statute (M.G.L. Chapter 175K) as well as the IIC statute. The IIC has not only developed standards for life insurance but it also has developed standards for disability income insurance. Director of Policy Form Review Sheri Cullen provided a presentation to the Working Group by explaining the background on the IIC's procedure for developing standards. She stated that there have been 13 disability income filings approved through the IIC to date. These standards are continuously reviewed to see if there are additional standards or updates needed. Mr. Beagan then explained that even using the Compact, some companies do not have unisex rates for their products. He also explained that if the Massachusetts statute was amended to make all products unisex, products already approved through the Compact, before any amendments were adopted, would continue to be allowed for

marketing by insurance companies. If the Massachusetts standards are changed, a company could still use the option of going through the Compact's standards for approval of their product.

WG member Shane Blundell asked Mr. Beagan to confirm if it is true that companies can avoid stricter standards by the DOI by simply using the Compact to bypass Massachusetts regulations. Mr. Beagan confirmed that Mr. Blundell's statement was accurate. Mr. Beagan reiterated that he only raised this issue as an item for the Working Group's consideration, and is not meant to dissuade the WG. Mr. Beagan explained to the WG that there are methods to obtain some of the requested information but there are also some instances where obtaining it publicly is not possible. Members of the Working Group asked a series of questions about actuarial information that the DOI was unable to produce. Without hiring an actuarial contractor to consult with the Working Group, because of a lack of resources, the DOI is unable to produce some of the requested information. Mr. Beagan asserted that we would need more actuarial data collected and examined in order to gage the effect of a change in regulatory policy. Working Group members and DOI support staff then continued to discuss what would be necessary to determine changes that are needed. Kevin Beagan and Commissioner Judson proposed bringing a motion before the group authoring them to contact members of Legislature's oversight committee regarding the necessary research going forward.

Commissioner Daniel Judson Discussed What is Necessary to Conduct an Analysis:

Commissioner Judson explained that the Working Group lacked the manpower, resources, and essentially the expertise to conduct a proper actuarial analysis. He stated the Working Group would be responsible for defining the research questions which were needed to be asked in order to find the information the WG agreed is necessary to move forward. The WG also must get a sense of the costs of such an action. Commissioner Judson suggested that the Working Group recommend a couple of amendments, one of which is a report that would be due July 1st 2017 as well as allocating an amount of money somewhere in the range of \$60,000 so that the Division could take on additional actuarial support. Legislative members of the WG agreed that this is the best way to move forward. The legislative members of the WG also suggested looking into the impact on the industry during the Division's research. They also inquired if that is something that could be done internally without the need for outside actuarial help. Commissioner Judson explained that the research will need to study cost and benefits. The some members of the Legislature have expressed concern that the information presented at the WG meeting was focused on the cost and benefits to the insurance industry rather than the individual consumer. The WG then discussed some of the potential costs and benefits of gender equity regulatory policy changes. The DOI does not have the resources to facilitate potential regulatory and statutory changes, and the legislative members of the Working Group agreed it is up to the Legislature on what to do about that. Members of the Working Group inquired with Kevin Beagan about how long it would take to gather additional necessary information. Mr. Beagan responded that between creating the right questions and making sure they were properly answered would be time consuming, with an estimate of about 12 months. He stated that making sure the questions are simple and limited would greatly reduce the time frame. The Working Group requested an actuary provide a simplified explanation on how disability income pricing is determined at a future meeting. Working Group members asked Commissioner Judson about having a risk specialist come before the WG at a future meeting. Commissioner Judson explained such a person would have to come from outside the Working Group.

Adjournment of the Working Group

Commissioner Judson will draft a letter to the Legislature stating the need for an extension of the statutory deadline and the reasons for it. In the interim, the DOI will continue to gather the information requested by members of the Working Group. The DOI staff will gather more information at the National Association of Insurance Commissioner's national meeting between the December 1st Working Group meeting and the next scheduled meeting. Members of the Working Group stated they will discuss a time to reconvene at a later date.

Thereupon, a motion to adjourn was submitted by Commissioner Judson, and it passed unanimously.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

Appendix C

Appendix C

Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Monday, July 24, 2017--- by a Vote of: -Unanimous-.

July 24th, 2017, Minutes of the WG on Gender Equity in Disability Policies Held at Conference
Room 1-E, 1000 Washington Street, Boston, Massachusetts 02118

Members Present:

Kevin Beagan, designee of Gary Anderson, Acting Commissioner of Insurance
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz
Steven Clayburn, Senior Actuary of the American Council of Life Insurers
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Ann Hartner, designee of President of the Women's Bar Association of Massachusetts
Emma Friend, designee of Massachusetts State Senator Barbara L'Italien
Jenny Erickson, designee of the Life Insurance Association of Massachusetts, Inc.
Margot Parrot, Chairperson of Permanent Commission on the Status of Women

Members Not Attending:

Massachusetts House Representative Jennifer Benson
Massachusetts State Senator Jamie Eldridge
John Chapman, Undersecretary of the Office of Consumer Affairs and Business Regulation

Elected/Appointed Officials in Attendance:

Representative Ruth B. Balsler, Member of the Massachusetts House of Representatives

DOI Representatives in Attendance:

Rebecca Butler, Legal Unit
Daniel Smith, Representing Sheri Cullen Policy Form Review Unit
Marissa Vertes, Health Care Access Bureau

Call of 3rd Meeting to Order by Chairman Representative Kevin Beagan:

A quorum was determined to be present, and Deputy Commissioner Kevin Beagan, representative for Acting Insurance Commissioner Gary Anderson, Chairman of the Disability Income Insurance Gender Equity Working Group (WG), called the meeting to order at 10:35 AM. Deputy Commissioner Beagan thanked members for coming to the Division for this meeting of the WG, the first scheduled since the December 1, 2016 meeting coordinated by former Insurance Commissioner Daniel Judson. Mr. Beagan introduced himself and explained that Acting Insurance Commissioner Gary Anderson had requested that he reconvene the WG in order to proceed with the development of the report requested Outside Section 173 of the 2017 Massachusetts Budget and to chair the WG meetings on his behalf. Members of the WG then introduced themselves.

Mr. Beagan noted that there had been turnover within the DOI and he could not confirm that prior persons coordinating the work of the WG had disseminated draft minutes from the

December 1, 2016 meeting. Other members confirmed that such minutes had not been disseminated to the WG. The draft minutes were distributed and the WG members voted unanimously that approving the December 1, 2016 minutes be tabled until a next meeting so that they would have more time to review the minutes to confirm they are accurate.

Reports on Information Gathered by the Division Staff since the Previous Meeting

Mr. Beagan indicated that DOI staff had conducted additional research since the most recent meeting to look into items. One member requested that the DOI look into how the market for annuity products changed with the issuance of Bulletin 2008-19 which implemented gender-neutral rating for annuity products according to WG the provisions of Chapter 230 of the Acts of 2008. Mr. Beagan indicated that the Division of Insurance looked through its internal product filing system to determine whether companies continued to file annuity product materials after the January 1, 2009 data on which the law requires gender-neutral annuity products. He distributed materials that did illustrate the numbers of materials filed each year from 2007 through 2016 and a list of those companies who did make filings with the DOI any time after January 1, 2009. Mr. Beagan pointed out that, the overall number of annuity product materials filed may have dropped off since pre-2009 levels, but the Division still receives a number of annuity filings each year consistent with the gender neutral requirements from Chapter 230 of the Acts of 2008.

Mr. Beagan also discussed DOI staff work to review the history of the Equal Opportunity Amendment in court cases in Massachusetts, and other information that have become available about gender equity in employee benefits had been found from online articles and studies, including materials that the DOI will disseminate to WP members from Gallup polls, The Olson Group, and a study conducted by Waltheub. Mr. Beagan stated that the articles appear to present information that argues that equality of opportunity and benefits between sexes promoted a much more productive workplace. Members then discussed the importance of having equal opportunity, regardless of gender, and they inquired about the possibility of obtaining more information regarding gender neutral rates for insurance products involving disability income. Ms. Erickson noted that federal law already required employee benefits be gender neutral and the WG would only be looking at products which are purchased by individuals and not sold as workplace benefits.

Discussion Involving a Special Examination Conducted by the Division of Insurance

Following the discussion about equal benefits being imperative to the workplace, Ms. Erickson reminded the WG about previous works the Division had already published regarding disability income insurance in 2011. Ms. Erickson said the data published in this report is from 6 years ago, and that the survey focused on both individual and group insurance products. The individual products, she stated, may be more useful in gaining information for the purposes of this WG.

Mr. Beagan inquired if it would be worthwhile for the DOI to conduct a special examination of the carriers with a goal of collecting information on the numbers of group and individual enrollees in these types of products in the current MA market. A motion was made, and the members agreed that the DOI should conduct a special examination. .

Discussion Involving Additional Meetings of the WG on Gender Equity in Disability Policies

Mr. Beagan asked the WG members about how best to conduct future meetings in order to proceed with the development of a final report. Ms. Erickson and Mr. Clayburn suggested that it might be helpful for an actuary to attend a future meeting to present how disability rates are developed. Mr. Mr. Sheridan agreed with having an actuary at one meeting to further round out all information discussed as part of these meetings. Ms. Hartner stated that it would be worthwhile to have a meeting involving someone who is more policy oriented to assist with further enhancing the information presented to the group about the benefits of gender-neutral rating. Mr. Beagan indicated that the DOI could work to draft a report in mid-October after the September meetings.

A motion was made, and seconded, to schedule two meetings in September with one meeting devoted to a discussion of the benefits and the other meeting devoted to a discussion of the costs of gender-neutral rating and the DOI would work to develop a draft for the WG to review in mid-October. The motion carried.

Kevin Beagan then asked if Representative Ruth Balsler had any remarks for the WG to consider. Representative Ruth Balsler stated that the report being finalized by the end of the year would work with consideration of bills that might be reviewed within the Legislature.

With respect to process, the members generally discussed that it seemed appropriate for the WG to continue with its legislatively directed mission, even though the legislative directive for the WG technically ended on December 31, 2016.

Mr. Beagan indicated that he would follow up with the WG members in the coming week to schedule time for September meeting and coordinate a special examination of carriers.

Adjournment of the WG

Thereupon, a motion to adjourn was submitted by Deputy Commissioner Beagan, and it passed unanimously. The meeting adjourned at 11:25 AM on July 24, 2017.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

Appendix D

Appendix D

Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Friday, October 20, 2017--- by a Vote of: -Unanimous-

October 20th, 2017, Minutes of the WG on Gender Equity in Disability Policies Held at
Conference Room 1-E, 1000 Washington Street, Boston, Massachusetts 02118

Members Present:

Kevin Beagan, designee of Gary Anderson, Acting Commissioner of Insurance
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz
Steven Clayburn, Senior Actuary of the American Council of Life Insurers
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Ann Hartner, designee of President of the Women's Bar Association of Massachusetts
Emma Friend, designee of Massachusetts State Senator Barbara L'Italien
Jenny Erickson, designee of the Life Insurance Association of Massachusetts, Inc.
Margot Parrot, Chairperson of the Permanent Commission on the Status of Women
Maeve Kidney, designee of Massachusetts House Representative Tackey Chan

Members Not Attending:

Massachusetts State Senator Jamie Eldridge
John Chapman, Undersecretary of the Office of Consumer Affairs and Business Regulation

Elected/Appointed Officials in Attendance:

Representative Ruth B. Balsler, Member of the Massachusetts House of Representatives

DOI Representatives in Attendance:

Mindy Merow Rubin, Legal Unit
Daniel Smith, Policy Form Review Unit
Sheri Cullen, Policy Form Review Unit
Marissa Vertes, Health Care Access Bureau
Hillary Berkowitz, Health Care Access Bureau
Tracey McMillan, Bureau of Managed Care

Call of 4th Meeting to Order by Chairman Representative Kevin Beagan:

A quorum was determined to be present, and Deputy Commissioner Kevin Beagan, representative for Acting Insurance Commissioner Gary Anderson, Chairman of the Disability Income Insurance Gender Equity Working Group (WG), called the meeting to order at 10:35 AM. Deputy Commissioner Beagan thanked members for coming to the Division for this meeting of the WG, since the last meeting on July 24, 2017. Mr. Beagan introduced himself and explained that Acting Insurance Commissioner Gary Anderson had requested that he reconvene the WG in order to proceed with the development of the report requested Outside Section 173 of the 2017 Massachusetts Budget and to chair the WG meetings on his behalf. Members of the WG then introduced themselves.

Mr. Beagan noted that there had been turnover within the DOI and he could not confirm that prior persons coordinating the work of the WG had disseminated draft minutes from the

December 1, 2016 meeting. WG member Steven Clayburn noted that the meeting minutes distributed were from October 2016 and had been previously voted on. The December 1, 2016 meeting minutes were voted to be tabled until the next working group meeting on November 14, 2017. The working group then noted some details to be changed in the July 24, 2017 meeting minutes, and then motioned to approve the meeting minutes from the previous meeting with the included changes.

Presentation of Tasha S. Khan, FSA, MAAA, Milliman, Inc.

Mr. Beagan indicated that the WG members voted in previous meetings to bring in outside perspectives to gain more information on gender equity in disability income insurance (DI). The WG agreed to have an actuarial based perspective and a policy based perspective. Mr. Beagan proceeded to introduce Actuary, Tasha S. Khan, who was provided by WG members Jenny Erickson and Steven Clayburn. Mr. Beagan then noted that the following meeting on November 14, 2017 will have a policy based presentation to provide more information for WG members. Group member Jenny Erickson then asked Mr. Beagan if there was a status update on the special examination that the Division of Insurance was supposed to be distributing to the appropriate entities. Mr. Beagan informed group member Erickson that it has not been distributed to the actuaries but will be in the next few weeks in order to then work on updating information. Mr. Beagan then introduced presenter Khan, who identified herself as a resource for the working group.

Ms. Khan identified herself as a principal and consulting actuary from Milliman, Inc. with a focus on disability income insurance (DI) for over 13 years. Milliman, Inc. assists various insurance companies, agencies and employers with DI related matters. Ms. Khan noted that the presentation she was about to give highlighted the higher points of the report that she previously distributed to WG members via email.

Ms. Khan began the presentation stating a general overview of DI insurance, stating that it exists to “protect working people from losing income as a result of disability,” and individuals can use the money earned for any essential living expenses. Ms. Khan overviewed the elimination period, benefit period and monthly indemnity period as they relate to DI insurance. Mr. Beagan then asked if there are any benefit periods for less than up to age 65, to which Ms. Khan responded that there are for any number of years, which for example if an individual has a permanent disability, they can use a 5 year term policy on top of earned social security benefits.

Ms. Khan then continued, stating that most DI insurance policies are “guaranteed renewable,” which allows the insurance company to change premiums for a class of policyholders in the experience is different from the assumed experience, or “noncancelable,” which means that the premiums cannot be changed for the life of the policy. Mr. Beagan then inquired if step rating of premiums is common in DI insurance, to which Ms. Khan informed that it is not common because 80 percent of the market is noncancelable products.

Ms. Khan then discussed pricing methods and rating variables for premiums, which are selected based on their correlation with risk. WG member Margot Parrot then inquired if there are certain “forbidden” variables for when actuaries determine rates. Ms. Khan stated that a variable such as race is forbidden as subject to rate setting laws. Mr. Beagan then stated that there is a statute available that could be distributed, which discusses rate setting variables and rate setting as a

whole. Ms. Khan then continued to discuss pricing methods for DI insurance, and how the claim costs are developed based on combinations of these rating variables and then increased to cover additional administrative and varying other expenses.

Ms. Khan continued her discussion of rate setting and pricing methods by explaining adverse selection, where those with a higher risk are more likely to purchase insurance. Ms. Khan provided an example for the working group relating to fire insurance where a town has straw houses or brick houses. The individuals in straw houses would be at higher risk for a fire, so they would pay more. But, if the straw and brick houses were rated equally, only straw houses would buy the insurance because they would be getting a better deal with a higher risk. Ms. Khan then related this back to gender, stating that gender is a rating variable because of costs of risk, and a similar situation would happen if we rated gender equally.

Ms. Khan provided a table of “2013 IDIVT Annual Claim Costs per \$1,000 Monthly Benefit 90 day EP, To Age 65, Occ Class 1, 3% Interest,” and a chart titled “2013 IDIVT Annual Claim Costs per \$1,000 90-day EP, To Age 65, Occ Class 1” which showed industry data from 1990 to 2007 in expected claim costs for men and women. WG member Jenny Erickson asked Ms. Khan what class 1 entails, to which Ms. Khan informed Ms. Erickson that class 1 workers are white collar workers. WG member Shane Blundell then inquired if individuals have to show a medical record when stating a claim. Ms. Khan replied to Mr. Blundell stating that different policies have different definitions so it would depend on the individual case and policy itself. Mr. Blundell followed up asking if these companies track denial rates, to which Ms. Khan stated that there is not a lot of information available regarding denials, however, there is an appeal process. Mr. Blundell then followed up and asked Ms. Khan why women tend to file more for DI insurance, to which Ms. Khan stated that there is a higher rate of disability risk in women, excluding pregnancy (unless it involves complications). Mr. Beagan then continued the discussion and asked if there are more types of medical conditions for women, or are there more claimants from women, do women get more money or are women insured for longer periods of time. Ms. Khan responded to Mr. Beagan’s inquiry, stating that these rates have to do with the duration of the claims submitted, and the fact that women tend to live longer and therefore shows more claims. Mr. Beagan then followed up by asking if rate setting solely includes incidence, to which Ms. Khan confirmed that it is incidence and duration of claims, and that mortality rates tend to be lower for women than they are for men. WG member Ann Hartner followed up this inquiry, asking if there are medical reasons for long duration claims that women are more prone to than men. Ms. Khan then stated in response to Ms. Hartner that when looking at a higher level women experience more rates of disability in a type of disability than their male counterparts. The WG then granted Representative Ruth Balsler permission to ask a question, to which Representative Balsler asked if it is possible to put a human face on DI claims, or are women just more likely to do paperwork for these claims than their male counterparts. Ms. Khan then responded to Representative Balsler’s question saying that actuaries see a dynamic of women having more incidence of these diseases but knowing the actual medical reasons behind it are beyond her expertise as an actuary. Actuaries find that the difference between women and men is that females have higher claim costs. WG member Jenny Erickson then followed up Representative Balsler’s Question by asking if there is something specific to women that drives their higher claim costs, to which Ms. Khan stated that the fact remains that females as a whole are more

expensive than males and that she does not know the specific factors that drive female costs to be higher.

Ms. Khan then proceeded to lead a discussion on unisex pricing, and detailed that when developing premiums, that in a unisex rated industry the organizations would have to develop separate premiums for both females and males and then average them to create a unisex premium rate. Ms. Khan then stated that this brings up an issue where insurance companies will not know how many males or females will exactly purchase in individual policies. WG member Margot Parrot then asked Ms. Khan why insurance companies are unable to predict the mix of male and female purchasers. Ms. Khan responded to Ms. Parrot's inquiry, saying that in a group market there is little choice for individuals, where they have one policy to choose from and that is it, in the individual market there are multiple options so it becomes harder to predict what the number will be. Ms. Parrot then followed up stating that at some point the rates of individuals choosing plans will hit an equilibrium, to which Ms. Khan followed up saying that there are lots of cycles and change and that would require a lot of guessing. If there is a noncancelable plan priced at a 50:50 male to female ratio, and 60% females choose the plan, the plan would be underpriced and the company could falter. Increasing the price of the plan would only cause adverse selection because if a plan is cheaper, people will go choose that plan over the more expensive option, so it is important to be prudent. WG member Ann Hartner then asked if most DI insurance policies have premium suspension, which Ms. Khan replied that actuaries try to price these policies as close as possible because the insurance companies need to be competitive when figuring their gender distributions and whoever makes the lowest assumption will be the cheapest. Ms. Khan then proceeded to say that she had covered her entire presentation and that now she would hold time for additional questions.

Additional Questions From Working Group (WG) Members

After the conclusion of the presentation from Actuary, Tasha Khan, Deputy Commissioner Kevin Beagan thanked her for her time and for presenting and then proceeded to begin the follow up question segment of the meeting. Mr. Beagan then asked Ms. Khan if she could provide more details about the work classes she mentioned earlier in her presentation. Ms. Khan responded that the first study of this insurance was in the 70s with four classes, and the most recent study found that medical occupations had different results from other classes, and created another rating variable. The four classes are class 1 white collar workers, class 2 skilled/technical/clerical workers, class 3 manual workers, and class 4 blue collar workers. Mr. Beagan then referred to the previously distributed report from Ms. Khan, stating that page 14 Appendix A has different class experiences, and medical has a more different experience, where in chart A4 it appears that these individuals should receive the same premium. Ms. Khan responded that this rating factor is very new and companies are struggling to add it into the pricing structure. Mr. Beagan then asked if premiums are the same at young ages and old ages as they appear to converge between men and women on the ends of the charts. Ms. Khan noted to Mr. Beagan that individual companies rate on their own experience and not national experience, so they do not pull out medical and therefore do not see this trend. Mr. Beagan then inquired how the tables provided compare to previous studies done, to which Ms. Khan informed that the previous tables showed a significant difference all around between males and females. WG member Jenny Erickson noted that the law requires insurance companies and actuaries to price products according to risk. WG member Shane Blundell then asked if certain rating factors are weighted more over others, to

which Ms. Khan replied that they are all weighted equally when pricing insurance products. Mr. Blundell then followed up by asking if there have been any studies on adverse selection in industries like the health industry, to which Ms. Khan stated that individual choice coverage does not provide good data on unisex coverage for individuals seeking coverage and that actuaries only really know the distributions. Mr. Beagan then asked a question on section 6 on unisex pricing that unisex pricing could lead to adverse selection with more females over males, asking if Ms. Khan could identify compact availability over Massachusetts products. Ms. Khan replied to Mr. Beagan's question saying that she could not comment on that and that women tend to choose products that are not sex distinct versus men who choose sex distinct products, and that if there were an option for sex distinct products, men would definitely buy it more. Mr. Beagan again thanked Ms. Khan for her presentation and time, and concluded the Question section.

Next Meeting Overview

Deputy Commissioner Beagan noted that the next meeting is scheduled for November 14, 2017 at 10:30 AM. This meeting will focus on a policy based discussion led by WG member Shane Blundell and Victoria Budson. Mr. Beagan then asked if there were any more questions from the working group. Representative Ruth Balsler then asked if as a follow up to the presentation, Ms. Khan could gather information on the diagnoses that contribute to these claims, to which WG member Margot Parrot added that diagnoses like domestic violence would be interesting to see. Ms. Khan responded to the request saying that the data would most likely not be available and would need to confirm because she had not seen studies on distribution by diagnosis and by gender. WG member Emma Friend then asked if it could be possible to find if women just file more often than men, to which Ms. Khan responded that individuals file when they cannot work so it is unlikely that data is available. At this time Mr. Beagan stated that if there were any additional questions that they should be forwarded to WG member Steven Clayburn who will forward them to Tasha Khan. Mr. Beagan also informed the working group members that the special examination will be conducted, and an additional meeting in December will be necessary to discuss the results.

Adjournment of the WG

Thereupon, a motion to adjourn was submitted by Deputy Commissioner Beagan, and it passed unanimously. The meeting adjourned at 12:15 PM on October 20, 2017.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

- Presentation "Discussion of Gender-Based Rating in the Individual Disability Market"
- Draft Meeting Minutes October 24, 2016
- Draft Meeting Minutes July 24, 2017
- Written Report "Discussion of Gender-Based Rating in the Individual Disability Market"

Appendix E

Appendix E

Discussion of Gender-Based Rating in the
Individual Disability Market

Prepared For: The Life Insurance Association of Massachusetts

Author: Tasha S. Khan, F.S.A., M.A.A.A.
Principal and Consulting Actuary
Milliman

October 16, 2017



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Section 1: Introduction

This paper discusses the individual disability insurance market, common pricing methods in this market and their actuarial basis, industry data regarding gender differences, and potential implications of requiring unisex rating for these types of policies. In developing this analysis, we have relied on information from publicly available sources such as company rating manuals and industry reports, as documented in this report. To the extent that any of this information is inaccurate or incomplete, the results of our analysis may be materially affected.

This information has been compiled at the request of the Life Insurance Association of Massachusetts (LIAM), for the purpose of supporting its evaluation of gender-specific rating in the individual disability market. Except as set forth below, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit any third party recipient of its work, even if Milliman consents to the release of its work to a third party. Milliman hereby consents to LIAM providing a copy of the final, non-draft version of the white paper, in its entirety, to the Working Group, the LIAM and American Council of Life Insurers (ACLI) members, the Commonwealth of Massachusetts and the Massachusetts legislature; provided, however, that the parties agree Milliman does not intend to benefit, and owes no duty to, the Working Group, the LIAM and ACLI members, the Commonwealth of Massachusetts and the Massachusetts legislature.

As described in this report, the potential impact of unisex rating on the individual disability insurance market has been explored using hypothetical scenarios and estimates regarding future experience. It is highly likely that future experience will not conform to these assumptions, meaning the actual impact of unisex rating will be different from what is presented in the hypothetical scenarios discussed in this report.

I, Tasha S. Khan, am a consulting actuary for Milliman Inc. I am a member of the American Academy of Actuaries and I meet the qualifications standards of the Academy to render the actuarial opinion contained herein.

Section 2: Executive Summary

This report discusses the experience basis as well as the actuarial basis for sex-distinct rating in the individual disability insurance (IDI) market, along with potential implications of unisex rating. This section contains a summary of the key points that are discussed in greater detail in other sections of this report.

- Insurers use risk characteristics such as age, gender and occupation class to determine the appropriate premium rate for IDI coverage. The use of risk characteristics is consistent with Actuarial Standards of Practice (ASOPs), and allows the premium to match the underlying risk as closely as possible, which minimizes adverse selection.
- The industry experience reflected in the newest industry table (2013 IDI Valuation Table) demonstrates significant differences in disability claim costs by gender.
- Unisex pricing is used with other disability products where the underlying gender distribution can be calculated with a reasonable degree of confidence.
- Requiring unisex IDI pricing in all markets will cause premiums to be out of line with the underlying risk. In general, premiums for males will be higher than what is needed to cover male claim costs and premiums for females will be lower. Unisex premiums charged to males will therefore be used to subsidize premiums for females. This mismatch is likely to increase adverse selection and may cause plan demographics to shift and overall premiums for IDI coverage to increase.
- Due to the uncertainty of the gender distribution, companies might include additional margin in their unisex pricing methods, which could also cause premiums to increase.

Section 3: Background on Individual Disability Insurance

IDI is designed to protect working people from the risk of losing their income due to illness or injury. When a policyholder becomes disabled, he or she will receive a benefit payment each month to replace a portion of lost income. There are no restrictions on how the monthly benefit payments are used by the disabled policyholder (or “claimant”). The definition of what constitutes a disability and therefore when a policyholder is eligible for benefits varies depending on the type of policy purchased. Some policies require that the policyholder be totally disabled, meaning unable to work for any length of time. Other policies allow for partial disability, which means that the claimant is able to work only part-time and/or has suffered a particular level of income loss due to disability.

The IDI policy will specify certain basic policy provisions including the following:

Elimination Period: The waiting period between when the disability first occurs and when benefits begin. Common elimination periods are 90 and 180 days.

Benefit Period: The maximum length of time for which benefits are payable. Common benefit periods are two years, five years, and To Age 65.

Monthly Indemnity: This is the monthly benefit amount payable under the policy.

Renewability: IDI policies are most often guaranteed renewable or noncancelable. If a policy is **guaranteed renewable**, the premiums for a class of current policyholders may be changed if experience for that class is significantly different from what was assumed when the premium rates were developed. For **noncancelable** policies, the premium rates for current policyholders cannot be changed for the life of the policy. Most of the IDI business sold in the U.S. is noncancelable (83% of new premium in 2015¹).

Current Pricing Methods for IDI

When developing premiums for their IDI business, insurers generally use experience from their own block of individual disability business, sometimes combined with data from industry-wide experience studies. Premium rates for IDI policies generally vary by issue age, gender, occupation class, benefit amount, smoker status, geographic area and policy provisions. In general, premium rates for individual coverages such as IDI are designed to match the underlying risk as closely as possible. The rating variables are selected with this goal in mind, meaning they have been shown to have a significant impact on disability costs. Matching the premium rates as closely as possible to the underlying cost helps to control adverse selection.

¹ Robert Beal, “2016 Annual Survey of the U.S. Individual Disability Income Insurance Market” (September 16, 2016) <http://www.milliman.com/uploadedFiles/insight/2016/Milliman-IDI-market-survey-2016.pdf>. This study does not include “worksite disability” policies that offer simplified benefits and are sold using payroll deduction methods.

Adverse selection occurs when premiums charged for a coverage do not line up well with the underlying risk. For example, if a particular plan charges the same premium regardless of age, and if costs increase with age, then the coverage is a better deal for older individuals who are subsidized by younger individuals. It is therefore likely that a higher proportion of older people would purchase this coverage, which increases the average cost of the plan. As discussed in a later section of this report, disability cost varies significantly by gender. Using separate rating classes for males and females therefore produces a closer match between expected costs and premiums.

Premium rates are developed by first calculating the expected **claim costs** for the policy. The claim cost is the expected total benefit to be paid out to policyholders for disability claims. Claim costs are developed for each pricing cell, which is to say each combination of rating variables such as elimination period, benefit period, issue age, gender, etc. These claim costs are then increased to cover additional costs such as overhead expenses, commissions, policy and claim management expenses, taxes, risk margin and company profit.

Examples of Unisex Disability Pricing

Disability coverage in the group market is typically priced on a unisex basis. Claim costs for group disability vary by gender, similarly to IDI, so the underlying premium structure for group disability also varies by gender. Before calculating a rate for a particular case, however, the carrier will be provided with census data containing information on all lives eligible for coverage under the policy. The carrier will then use this data to determine the gender distribution for the group and will reflect this distribution in the quoted rate. Thus, the unisex premium rate for a group case is based on the known gender distribution of the population being covered.

Within the IDI market, carriers may sell certain policies which are sponsored by employers and purchased by three or more of its employees. Carriers typically provide unisex premium rates for this employer-sponsored disability coverage. Because this type of coverage is initiated and endorsed by the employer, carriers provide rates on a unisex basis in order to ensure that the coverage does not constitute discrimination in employment. Carriers generally receive a census of eligible lives, similar to group disability, in order to determine the underlying gender distribution. Carriers will also require a particular level of participation in the plan in order to mitigate the risk of adverse selection.

Section 4: Industry Data on Gender Differences

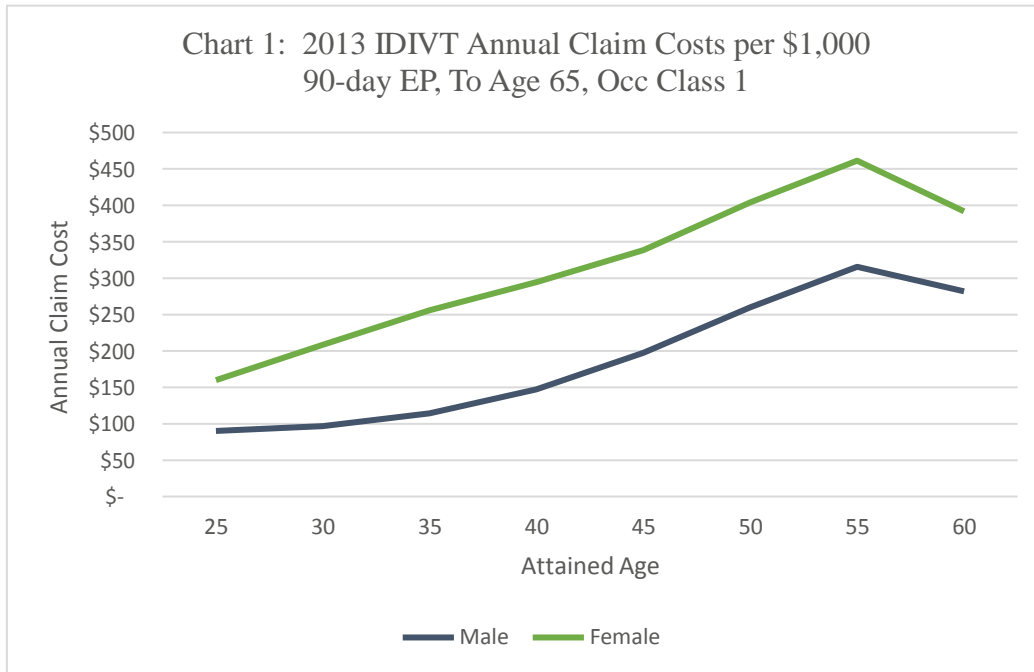
Differences in IDI claim costs by gender have been noted since the 1980s with the development of the 1985 Commissioners' Group Disability Table A (1985 CIDA). The most recent published industry table reflecting experience in the IDI market is the 2013 Individual Disability Valuation Table (2013 IDIVT). This table reflects industry experience from January 1, 1990 through December 31, 2007, and has been adopted by the National Association of Insurance Commissioners as the minimum valuation standard for individual disability business beginning in 2020. Based on sales data, the companies that contributed data used in the development of this table represent approximately 90% of the IDI market in the United States².

The table and corresponding graph below compare expected annual claim costs for males and females. These claim costs were generated using the spreadsheet³ created by the Individual Disability Tables Working Group, a joint committee of the Society of Actuaries and the American Academy of Actuaries formed to develop the 2013 IDIVT. The values assume an elimination period of 90 days, benefit period of To Age 65, interest rate of 3%, occupation class 1 (white collar), no margins, and an average industry mix of smokers and nonsmokers.

Attained Age	Male	Female	Ratio
25	\$90.19	\$159.87	177%
30	\$96.81	\$208.26	215%
35	\$114.44	\$255.96	224%
40	\$147.31	\$294.75	200%
45	\$197.65	\$338.39	171%
50	\$259.76	\$404.15	156%
55	\$315.61	\$461.42	146%
60	\$282.01	\$391.81	139%

² "Individual Disability Valuation Standard Report of the Joint American Academy of Actuaries/Society of Actuaries Individual Disability Tables Work Group," American Academy of Actuaries, www.actuary.org (December 2015)

³ 2013 IDI Valuation Table Workbook Version 1.3.xlsm, American Academy of Actuaries, www.actuary.org



The table and chart above show that female claim costs are significantly higher than male claim costs, with female costs generally more than double male costs between ages 30 and 40. The pattern of gender differences for other occupation classes and policy provisions is substantially similar, with some variability for occupation class M (medical occupations). Additional charts comparing male and female claim costs are included in Appendix A.

Section 5: Actuarial Basis for Sex-Distinct Rating

The use of gender as a factor in developing IDI premium rates falls under the more general issue of risk classification systems. This and other aspects of actuarial practice are governed by the Actuarial Standards of Practice (ASOPs) developed by the Actuarial Standards Board (ASB). The ASB is a committee whose members are appointed by the presidents and presidents-elect of the major actuarial organizations in the United States.⁴ The ASOPs developed by the ASB provide practicing actuaries with guidance on specific practice areas, including appropriate procedures, techniques, and approaches. The Code of Professional Conduct⁵ for members of the American Academy of Actuaries requires actuaries to ensure that their work satisfies these standards of practice. The ASOPs are also intended to provide other audiences, such as the general public and insurance regulators, with assurance that actuaries are professionally accountable for the work and that their work is performed in the public interest. The ASOPs provide appropriate and useful guidance on what constitutes sound actuarial principles.

Actuarial Standard of Practice No. 12, “Risk Classification (for All Practice Areas)” provides actuaries with guidance on performing professional services “with respect to designing, reviewing, or changing risk classification systems.” It begins by providing general definitions of a risk classification system and the risk characteristics on which such a system is based:

- A “risk classification system” is defined as “a system used to assign risks to groups based upon the expected cost or benefit of the coverage or services provided.”
- “**Risk characteristics**” are defined as “measurable or observable factors or characteristics that are used to assign each risk to one of the risk classes of a risk classification system.”

A risk classification system most often refers to underwriting rules and/or premium structures. ASOP 12 identifies seven considerations in the selection of risk characteristics (in this case, rating variables). These considerations are listed below, along with discussion of how gender as a rating variable satisfies each condition.

1. Relationship of risk characteristics and expected outcomes: *“A relationship between a risk characteristic and an expected outcome, such as cost, is demonstrated if it can be shown that the variation in actual or reasonably anticipated experience correlates to the risk characteristic.”* As documented in this report, the expected cost of IDI claims is significantly different for males and females, demonstrating a relationship between the risk characteristic and the expected outcomes.
2. Causality: *“While the actuary should select risk characteristics that are related to expected outcomes, it is not necessary for the actuary to establish a cause and effect relationship between the risk characteristic and expected outcome in order to use a specific risk characteristic.”* It is not necessary to demonstrate a cause and effect relationship between gender and the expected outcome; it suffices to demonstrate the relationship

⁴ <http://www.actuarialstandardsboard.org/aboutasb.asp>

⁵ <https://www.actuary.org/content/code-professional-conduct>

between the characteristic and the outcomes. That relationship is discussed in Section 4 of this report.

3. Objectivity: *“A risk characteristic is objectively determinable if it is based on readily verifiable observable facts that cannot be easily manipulated.”* The risk characteristic of gender can be objectively determined.
4. Practicality: *“The actuary’s selection of a risk characteristic should reflect the tradeoffs between practical and other relevant considerations.”* The risk characteristic is practical to evaluate due to the ready availability of gender information.
5. Applicable Law: *“The actuary should consider whether compliance with applicable law creates significant limitations on the choice of risk characteristics.”* There is not currently any law in Massachusetts which prohibits the use of gender as a risk characteristic.
6. Industry Practices: *“The actuary should consider usual and customary risk classification practices for the type of financial or personal security system under consideration.”* It is a usual and customary practice for disability carriers to vary IDI premium rates by gender in Massachusetts and most other states.
7. Business Practices: *“The actuary should consider limitations created by business practices related to the financial or personal security system as known to the actuary and consider whether such limitations are likely to have a significant impact on the risk classification system.”* There are no business practices that pose obstacles to the use of gender as a rating variable, since the risk characteristic can be readily evaluated by underwriters and the rating variable can be applied efficiently and effectively.

ASOP 12 also identifies several considerations in establishing risk classes based on risk characteristics. These considerations are listed below, along with discussion of how gender as a rating variable satisfies each consideration.

1. Intended Use: *“The actuary should select a risk classification system that is appropriate for the intended use. Different sets of risk classes may be appropriate for different purposes.”* The use of gender as a rating variable is appropriate because it allows the premium rate charged for the coverage to be more closely aligned with expected benefit costs.
2. Actuarial Considerations: *The actuary should consider the inter-related effects of adverse selection (which is likely to occur “if the variation of expected outcomes within a risk class is too great”), credibility (by attempting to design classes “large enough to allow credible statistical inferences regarding expected outcomes”), and practicality (by “balancing the potentially conflicting objectives of accuracy and efficiency, as well as in minimizing the potential effects of adverse selection.”)* First, the use of gender as a rating variable helps control adverse selection by minimizing the variability of experience within each risk class. Since claim cost experience varies significantly by gender, using separate risk classes for males and females produces a closer match between expected claim costs and premiums.

Second, each risk class is large enough to have credible industry data available to allow statistical inferences on expected outcomes. Third, the objective and practical nature of the risk characteristic means that separate rating classes for males and females can be administered accurately and efficiently.

3. Other Considerations: *“The actuary should (a) comply with applicable law; (b) consider industry practices for that type of financial or personal security system as known to the actuary; and (c) consider limitations created by business practices of the financial or personal security system as known to the actuary.”* First, as set forth above, this risk classification system is permitted if it conforms to sound actuarial principles or reflects actual or reasonably anticipated experience which - as demonstrated in this report - these risk classification systems do. Second, it is common industry practice for disability plans to vary IDI premium rates by gender. Third, there are no business practices that pose obstacles to the use of gender as a rating variable, since the risk characteristic can be readily evaluated by claim examiners and the rating class can be applied efficiently and effectively.
4. Reasonableness of Results: *“The actuary should consider the reasonableness of the results that proceed from the intended use of the risk classes (for example, the consistency of the patterns of rates, values, or factors among risk classes).”* The use of gender as a rating variable produces the reasonable result that premiums are more closely aligned with the underlying risk.

The analysis above indicates that the use of gender as a rating variable satisfies all of the required considerations identified by ASOP 12, which together represent sound actuarial principles for the design of risk classification systems.

Section 6: Discussion of Unisex Pricing

This section discusses the potential impact of unisex pricing on all of the IDI market. While it is not possible to predict the impact of such a change with any degree of certainty, it is possible to make a reasonable estimate regarding likely adjustments and implications, and to estimate the impact of potential subsequent experience on company results. The first issue to consider is adverse selection risk. Since female disability costs are generally higher than male disability costs, IDI premiums would increase for most males and decrease for most females. Male premiums would effectively subsidize female premiums. If individuals were able to choose between a policy with unisex rates and a policy with sex-distinct rates, males would more often choose the policy with sex-distinct rates and females would most often choose the policy with unisex rates. If all policies marketed to a particular population were required to be unisex rated, then this mitigates some of this adverse selection risk. It is likely that more females and fewer males would purchase new disability policies than in the past, since some females who did not purchase an IDI policy because of the high price may find a unisex priced policy to be affordable. Likewise, some males may decide not to purchase a unisex priced policy due to the higher cost. The extent that the distribution by gender shifts more to females as the result of unisex pricing is difficult to estimate. However, it is reasonable to expect that the overall plan claim costs will increase due to a higher proportion of females, which would lead to higher overall premiums for a unisex priced IDI policy.

The change might also affect current, or inforce, business for the insurer. Depending on a policyholder's issue age and current age, it may be less expensive for healthy females to allow their current IDI policies to lapse and then purchase new policies with unisex rates. Expenses such as commissions are significantly higher for new policies than for older, established policies, so lapse rates are an important assumption for developing appropriate premium rates and projecting expected future financial health of IDI business. If significantly more females than expected terminate their policies, this could negatively impact the overall IDI block in the near term.

In order to calculate unisex premium rates, the expected claim costs would need to be blended for males and females, using an assumption regarding the expected proportion of males and females in the covered population. It would be difficult to base this assumption on historical distributions that reflect sex distinct pricing since the act of moving to unisex rates will likely change the gender mix. As an example, consider the following set of hypothetical premium rates. Please note that these are illustrative rates only, generated from average rates from several publicly available company rating manuals.

Table 2: Sample Annual IDI Premium Rates per \$1,000 of Monthly Indemnity 90 day EP, To Age 65 BP, Occ Class 1, Accident and Sickness		
Age	Male	Female
25	\$160.00	\$230.00
35	\$220.00	\$340.00
45	\$330.00	\$440.00
55	\$450.00	\$530.00

Table 3 below shows the unisex premium rates obtained for different assumptions for gender distribution.

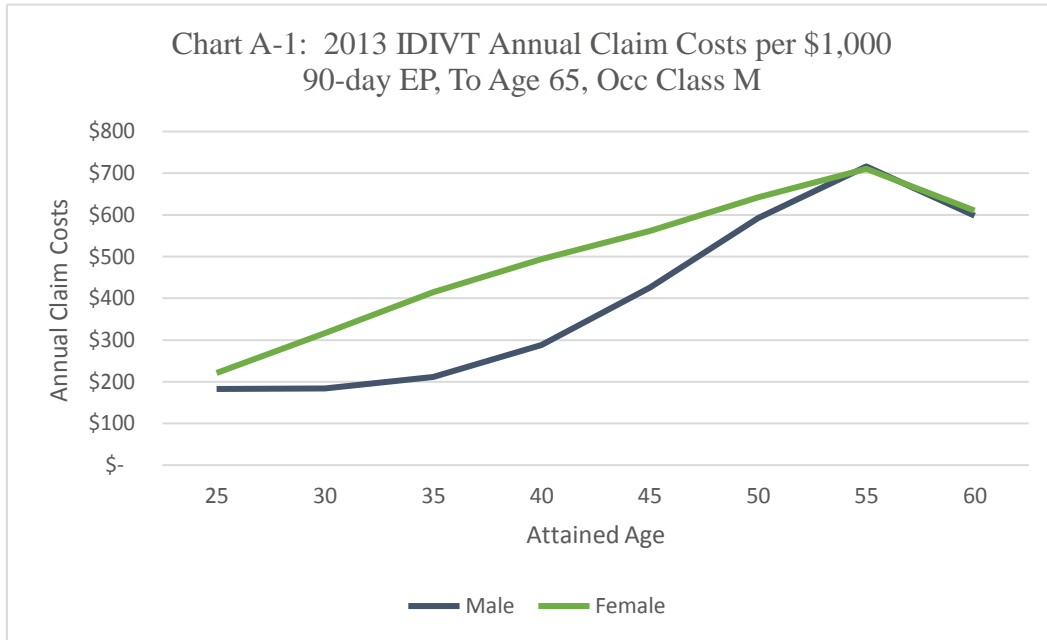
Table 3: Sample Annual IDI Premium Rates per \$1,000 of Monthly Indemnity (Unisex) 90 day EP, To Age 65 BP, Occ Class 1, Accident and Sickness			
Age	30% Female	40% Female	50% Female
25	\$181.00	\$188.00	\$195.00
35	\$256.00	\$268.00	\$280.00
45	\$363.00	\$374.00	\$385.00
55	\$474.00	\$482.00	\$490.00

Table 3 indicates that the unisex rates, as expected, are sensitive to the assumption for the gender distribution. If a company assumes that the covered population will consist of 30% females, and the actual proportion turns out to be 50% females, then using our sample premium calculations the coverage would be underpriced by 3-9%. Because over 80% of the IDI policies issued today are noncancelable, the premiums could not be changed for the life of the policy, which may be 30 years or more. In this case, the company could only recalculate its premium rates for future policyholders to correct the assumption. Over time, as the gender distribution data under unisex pricing emerges and stabilizes, companies would likely be able to develop a more appropriate assumption for the gender distribution for future business.

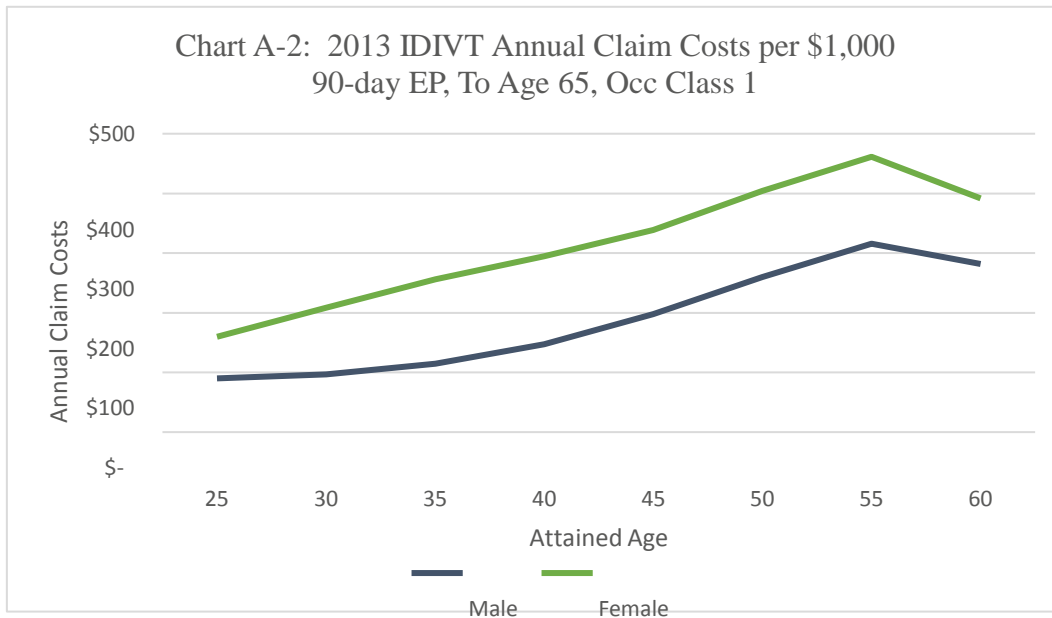
Since the gender distribution under unisex pricing is uncertain, and since the premium rates are sensitive to the gender distribution, conservatism would be necessary when developing this assumption. For example, if an actuary's best estimate is that future policyholders will be 30% female, it would be prudent to reflect an assumption of something greater than 30% in order to protect against uncertainty. If the company ultimately realizes a 30% proportion for females as expected, then premium rates will be set at something higher than what was needed. On average everyone would be paying more than before in order to protect against the additional uncertainty related to the gender distribution. Again over time, the company may alter premiums to reflect a best-estimate assumption for the gender distribution, when this distribution is shown to be relatively stable. Because the risk of mis-estimating the gender distribution remains, some level of conservatism may always be needed and reflected as an additional premium margin.

Appendix A: Industry Experience Additional Detail

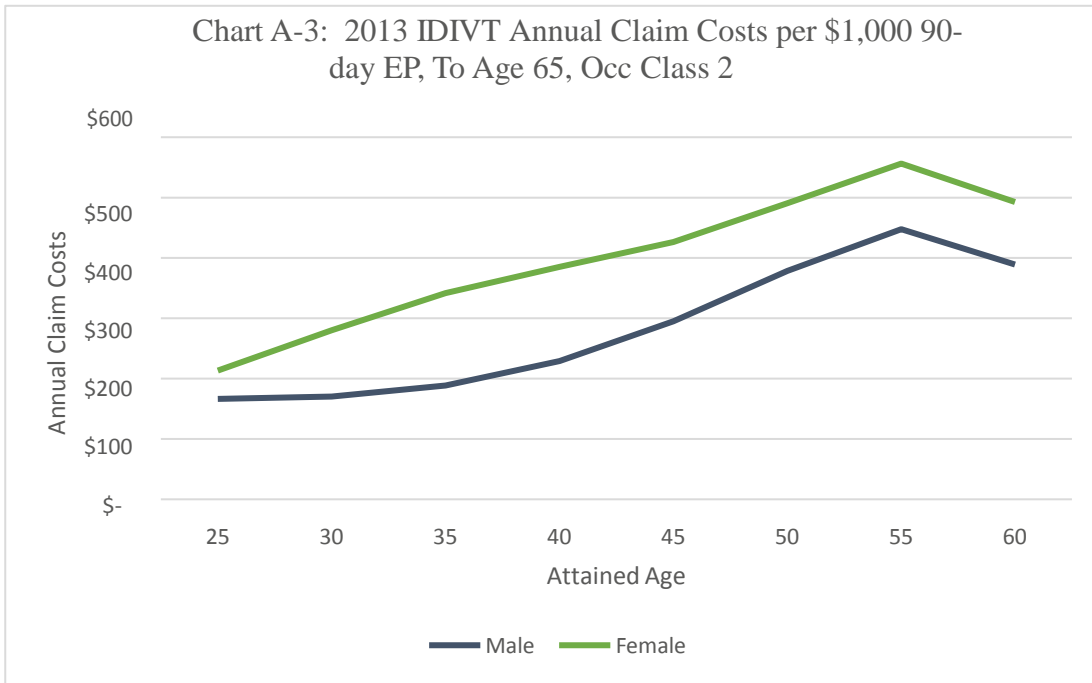
This section contains additional detail on gender differences observed in the IDI industry for different occupation classes and policy provisions.



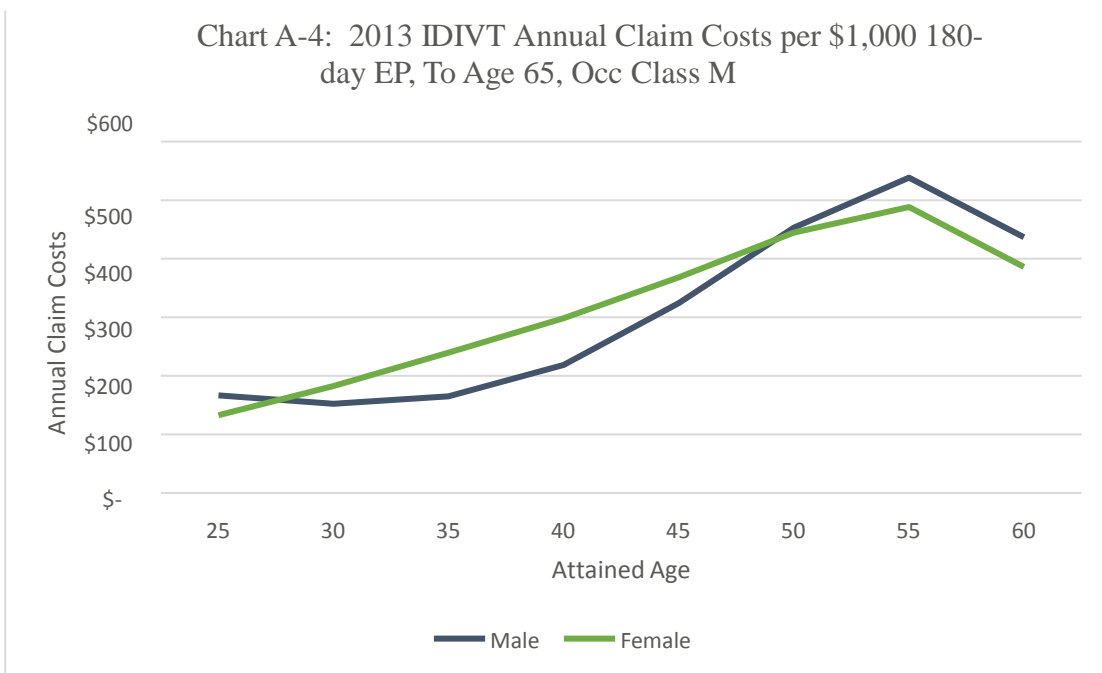
For occupation class M, which represents medical occupations, claim cost differences between males and females are much smaller at the youngest and oldest ages than for ages 30-50.



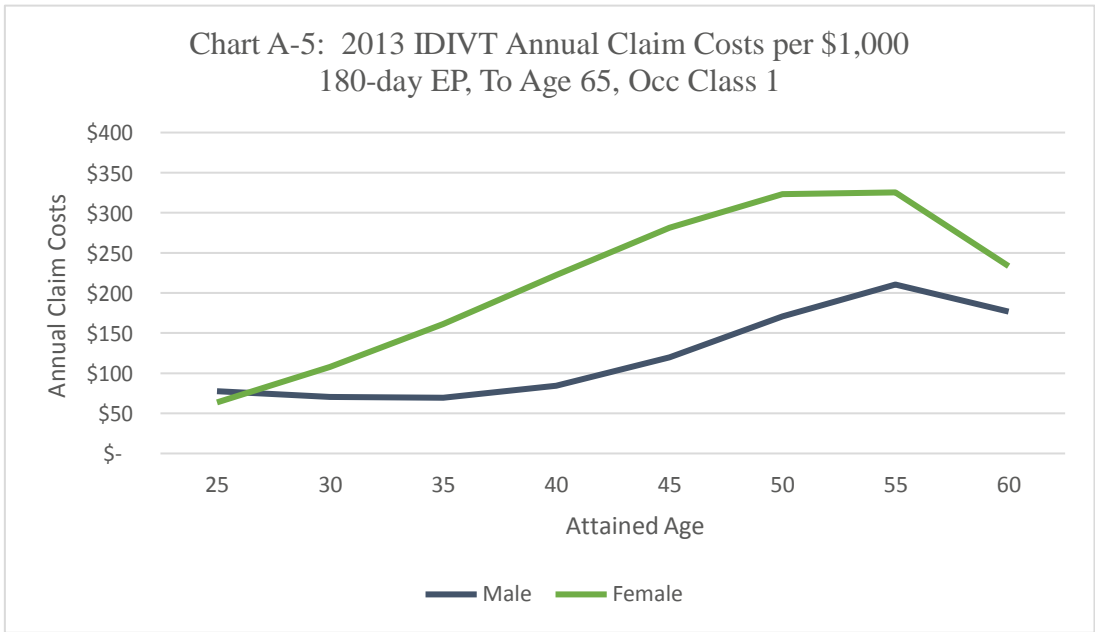
For occupation class 1, which represents non-medical white collar occupations, female claim costs are significantly higher than male claim costs at all ages.



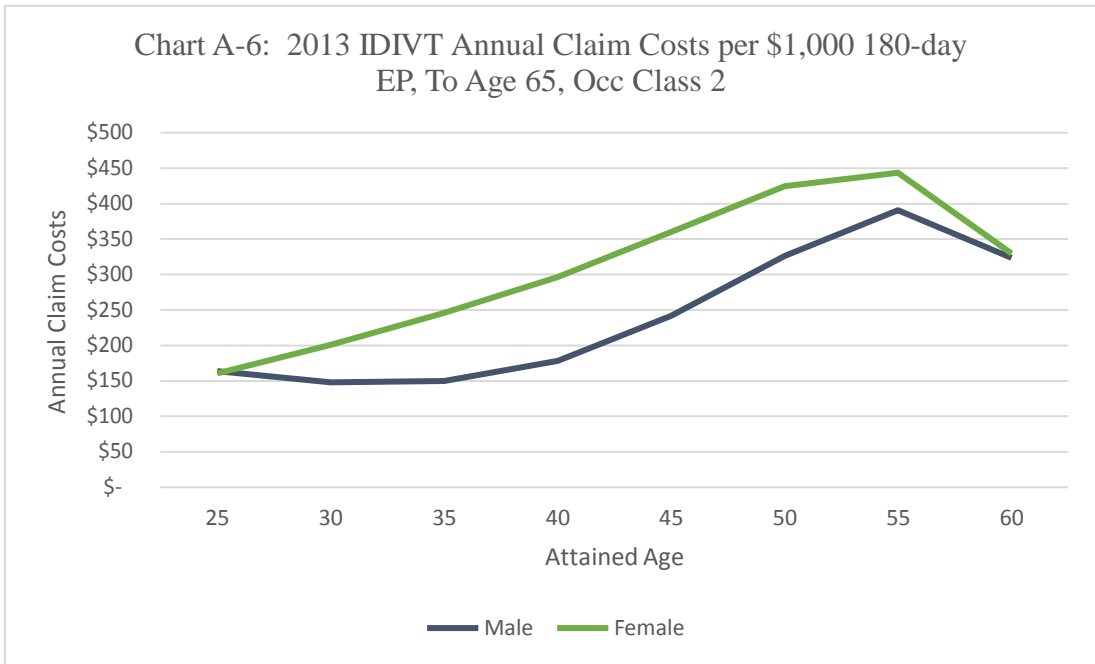
Claim cost differences by gender for occupation class 2, which represents skilled occupations with minimal manual duties, are similar to the differences observed for occupation class 1 in Chart A-2 above.



When moving to a longer elimination period, claim cost differences by gender decrease even further for occupation class M, with male claim costs exceeding female claim costs at the youngest and oldest ages.



For occupation class 1, there are again significant differences in annual claim costs for males and females. This gap narrows at the youngest and oldest ages.



The pattern for occupation class 2 seen above is similar to the pattern observed for occupation class 1.

Appendix F

Appendix F

Meeting Minutes of the Working Group on Gender Equity in Disability Policies for the Meeting Held on Tuesday, November 14, 2017--- by a Vote of: - UNANIMOUS -.

November 14, 2017 Minutes of the Working Group on Gender Equity in Disability Policies Held in Conference Room 1-E, 1000 Washington Street, Boston, Massachusetts 02118

Members Present:

Kevin Beagan, designee of Gary Anderson, Commissioner of Insurance
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Steven Clayburn, Senior Actuary of the American Council of Life Insurers (By Phone)
Jenny Erickson, designee of the Life Insurance Association of Massachusetts, Inc.
Emma Friend, designee of Massachusetts State Senator Barbara L'Italien
Ann Morse Hartner, designee of the President of the Women's Bar Association of Massachusetts
Maeve Kidney, designee of Massachusetts House Representative Tackey Chan
Margot Parrot, Chairperson of the Permanent Commission on the Status of Women
Sara Schnorr, appointee of the Governor from the Permanent Commission on the Status of Women
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz

Members Not Attending:

John Chapman, Undersecretary of the Office of Consumer Affairs and Business Regulation
Senator Jamie Eldridge, Member of the Massachusetts State Senate

Elected/Appointed Officials in Attendance:

Representative Ruth B. Balsler, Member of the Massachusetts House of Representatives

DOI Representatives in Attendance:

Hillary Berkowitz, Health Care Access Bureau
Sheri Cullen, Policy Form Review Unit
Mindy Merow Rubin, Legal Unit
Daniel Smith, Policy Form Review Unit
Marissa Vertes, Health Care Access Bureau

Presenters in Attendance:

Victoria Budson, A founder and the Executive Director of the Women and Public Policy Program (WAPPP) at the Harvard Kennedy School of Government

Call of 5th Meeting to Order by Chairman Representative Kevin Beagan:

A quorum was determined to be present, and Mr. Kevin Beagan, serving as representative for Insurance Commissioner Gary Anderson, Chairman of the Working Group on Gender Equity in Disability Policies (WG), called the meeting to order at 10:32 AM. Deputy Commissioner Beagan thanked members for coming to the Division for this meeting of the WG and introduced Ms. Schnorr as a newly-appointed member to the WG. Mr. Beagan explained that Commissioner Anderson had requested that the WG be reconvened in July 2017 to proceed with the development of the report requested Outside Section 173 of the 2017 Massachusetts Budget and

that he chair the WG meetings on behalf of the Commissioner. Mr. Beagan asked Marissa Vertes from the Massachusetts Division of Insurance to do a roll call. A quorum was met, and Mr. Beagan asked the WG members if they would allow group member Steven Clayburn to participate in the meeting by telephone as his flight from the Washington, D.C. area was cancelled. The WG approved this motion, and Mr. Clayburn was called so that he could participate in the meeting. Mr. Beagan then noted that members of the Division of the Insurance were in the room and identified them all. In addition, Representative Ruth B. Balser, Victoria Budson, and Luke Dillon identified themselves.

Mr. Beagan noted that he asked DOI staff to produce a packet of materials for Ms. Schnorr so she could be aware of the past work of the WG. Packets were distributed to all WG members so that all had a complete set of past documents for their records.

Mr. Beagan then gave members time to review the Draft December 2016 and October 2017 minutes. WG member Ann Hartner identified an edit in the 2016 minutes, and WG member Shane Blundell identified an edit in the 2017 minutes. WG member Maeve Kidney also noted that Massachusetts House Representative Jennifer Benson is no longer a member and should be removed from the October 2017 minutes. WG member Margot Parrot also identified that her title should be changed to reflect that she is the Chairperson of the Permanent Commission on the Status of Women. Mr. Beagan then motioned to approve these two sets of minutes, contingent upon these changes, and the motion was approved.

Policy-Focused Presentation by Victoria Budson and Shane Blundell

Mr. Beagan reminded WG members that the goal of the WG is to produce a report for the end of the year with recommendations regarding gender equity in disability income (DI) insurance. Mr. Beagan indicated that the WG members voted in previous meetings to bring in outside perspectives to gain more information on gender equity in DI insurance. The WG agreed to have an actuarial-based perspective and a policy-based perspective. Mr. Beagan proceeded to state that this session would focus on a policy perspective, as the meeting from October 2017 focused on an actuarial perspective. Mr. Beagan then introduced Victoria Budson and WG member Shane Blundell.

Presenter Victoria Budson thanked Mr. Beagan and the rest of the WG members for the opportunity to present. Ms. Budson identified this policy-focused presentation as an opportunity to bring up other points related to the issue of gender inequity in DI insurance. Ms. Budson identified that the Equal Rights Amendment in Massachusetts states that there should be no discrimination based on sex and that various insurance products such as health insurance have no rating based on gender. Ms. Budson then noted a federal standard that prevents gender-distinct rating for group DI insurance, thereby preventing employer-based insurance from having different rates based on gender.

Ms. Budson claimed that Massachusetts has not cleaned up a gender rating loophole in DI insurance in the individual market. Ms. Budson stated that the outcome of this loophole is that women purchasing individual DI coverage may be charged between 23 and 61 percent more than men are charged, which is discriminatory based on equal rights law. Ms. Budson noted that the majority of Massachusetts citizens are female, yet they are paid less than their male counterparts

and are required to pay more for individual DI insurance, adding to the financial stress impacting women. Ms. Budson suggested that this issue needs to be addressed and that Massachusetts should reduce the relative cost that women are forced to pay, which will increase the number of women who will be able to afford to be protected by individual DI coverage.

Ms. Budson noted that she was asked to present to the group because of her background in gender discrimination policy. She acknowledged that although the majority of those buying coverage do so through the group market, the 11 percent buying through the individual market represent a significant number of people and deserve a gender-blind rate. Ms. Budson then urged the WG to look at this issue based on the policy impact gender-based rating has on women's ability to purchase coverage.

WG member Shane Blundell thanked Ms. Budson for her presentation and her point that gender-specific rating should be eliminated in the individual DI insurance market. Mr. Blundell stated that for many individuals, DI insurance is a safety net that allows them to replace income when they are disabled. In Massachusetts alone there have been 300,000 jobs added in the last decade, which means that there are more people working who may need to purchase DI products.

Mr. Blundell pointed out that for many people, particularly women, affordability is a substantial barrier to obtaining necessary DI coverage. It can cost up to 60 percent more for women to purchase DI products when compared to the cost to cover men. In addition, Mr. Blundell noted that 46 percent of women in Massachusetts are the sole breadwinner in their families, and another 20 percent of women contributed between one-quarter to one-half of their family's earnings.

Mr. Blundell highlighted Ms. Budson's points that there are economic disparities in the workplace and that women on average make 84 percent of the salary of their male counterparts. This income disparity combined with the higher cost of DI coverage creates even more economic stress for women looking to purchase DI coverage to safeguard their family income. Mr. Blundell noted that a 27-year-old nurse could pay 50 percent more on a DI insurance policy than her male counterpart. In addition, he noted that since 75 percent of working women may eventually be pregnant, and many may face complications, the cost may prevent many from purchasing and benefiting from these products.

Mr. Blundell noted that he appreciates the industry's time, effort, and diligence on this issue. He suggested that with this proposed change in the law, premiums will still track reasonable estimates of losses. It simply asks insurers to track those losses from a larger group.

He said that Massachusetts has lead the way in ensuring gender fairness in insurance pricing. In health insurance, auto insurance, homeowners' insurance -- and as recently as 2008 for annuities -- we have eliminated sex-based price disparities because we consider them inappropriate as a policy matter, even though they reflect the risk of loss, and, thus, may be viewed as actuarially correct.

Mr. Blundell noted that men, particularly young men, have more automobile accidents and higher losses than women, but we do not permit auto insurers in Massachusetts to rate by gender.

Nor do we permit such factors as race or religion to be used to rate insurance in Massachusetts, even where these factors correlate with insurance claims.

Mr. Blundell said that we do this because we believe rating fairness and equity are more important social goals than actuarial correctness. When rates are “blended” for males and females, overall insurers will receive a fair price, and consumers will pay a fair price.

Mr. Blundell reminded the working group that that disability insurance products offered through employers – and regulated by federal law – must already be gender neutral. We should focus on establishing gender-neutral premiums for the 11 percent of individuals purchasing DI insurance where insurers retain the ability to use gender rating for disability insurance products.

Mr. Blundell then stated that recently, after a collaborative effort, we made critical updates to the Equal Pay Act to reflect our modern economy and make it one of the most comprehensive in the country. We know that women play a critical role in our economy.

He concluded by saying we must continue to lead on issues of workplace equity. Prohibiting the use of sex as a rating factor in the individual disability insurance market is an important next step. It is a matter of economic security for Massachusetts women and their families.

Additional Questions From WG Members

After the conclusion of the presentations from Victoria Budson and Shane Blundell, Mr. Beagan thanked them for their presentations and asked if WG members had follow-up questions or comments.

Ms. Hartner asked Ms. Budson to officially state her job title for the record. Ms. Budson stated that she is a founder and the Executive Director of the Women and Public Policy Program (WAPPP) at the Harvard Kennedy School of Government.

Ms. Parrot asked Ms. Budson if she could address any other state’s efforts towards promoting gender equality in rating DI insurance. Ms. Budson stated that she did not know of precedent in other states, but WG member Jenny Erickson stated that the WG previously discussed that the only state which has made strides is Montana. Mr. Beagan added that Montana has applied gender-neutral rating to all its lines of insurance and that he is not aware that such rule led to a drying-up of the marketplace for DI insurance products.

Ms. Schnorr asked Ms. Budson if there are other kinds of insurance that are rated based on gender, to which Ms. Budson replied that life insurance rates are based on gender. Ms. Schnorr also asked what laws prevent gender being used as a rating factor. Ms. Erickson indicated that federal Title VII would not allow gender rating for employees, as benefits and rates are to be the same for similarly-situated employees. Mr. Beagan added that gender was used as a rating factor in health insurance until 1996 and that he is not aware of the rules relating to auto insurance prior to 1994. Mr. Beagan also noted that Massachusetts enacted statutory provisions requiring gender neutrality in rating annuities in the mid-2000s and that he is unaware of any availability problem in Massachusetts’ market for annuities.

Ms. Schnorr noted that she understands that actuaries establish risk categories in order to understand the differing risks for various products. She added that she learned in law school that insurance is based on a pooling of risk and that she finds it odd that individual DI products do not appear to share risk in a pool requiring gender-neutral rating.

Next Meeting Overview

Mr. Beagan noted that in advance of the next meeting, DOI staff would develop draft summary materials for distribution to the WG after Thanksgiving so that they could discuss and debate the draft at the next meeting to be scheduled in December. Mr. Beagan stated that he anticipates that there may be recommendations that will be discussed in the next meeting. He clarified that the DOI draft report would not contain any recommendations because that would need to be decided by the WG in the upcoming meetings. Mr. Beagan suggested that the WG be prepared that there could be a majority and minority opinion included in the final WG report upon discussion of the WG members. Mr. Beagan suggested that there be two more WG meetings in order to produce a report by the beginning of 2018. Ms. Schnorr suggested that we will not know if two meetings is enough until the WG sees the report they have to discuss.

Ms. Erickson asked if the DOI summary material would lead to a recommendation. Mr. Beagan indicated that he would instead be developing a draft intended to summarize work to this point so that the next meeting could be used to develop recommendations. Mr. Beagan proposed the next meeting take place on December 13, 14, or 15. The WG members agreed to hold the next meeting on December 15, 2017 at 10:30 AM at the Massachusetts Division of Insurance, contingent on the availability of Room 1-E. Mr. Beagan also suggested that a second meeting take place January 3, 4, or 5, depending on room availability.

Adjournment of the WG

Thereupon, a motion to adjourn was submitted by Mr. Beagan, and it passed unanimously. The meeting adjourned at 11:31 AM on November 14, 2017.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

- Final Meeting Minutes October 24, 2016
- Draft Meeting Minutes December 1, 2016
- Final Meeting Minutes July 24, 2017
- Draft Meeting Minutes October 20, 2017
- Written Report “Discussion of Gender-Based Rating in the Individual Disability Market”

Appendix G

**Meeting Minutes of the Working Group on Gender Equity in Disability Insurance
for the Meeting Held on Friday, December 15, 2017--- by a Vote of: - UNANIMOUS -.**

December 15, 2017 Minutes of the Working Group on Gender Equity in Disability Insurance
Held in Conference Room 1-E, 1000 Washington Street, Boston, Massachusetts 02118

Members Present:

Kevin Beagan, designee of Gary Anderson, Commissioner of Insurance
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Joanne Campo, designee of Undersecretary of the Office of Consumer Affairs and Business Regulation, John Chapman
Steven Clayburn, Governor Appointee from the American Council of Life Insurers
Jenny Erickson, designee of the Life Insurance Association of Massachusetts, Inc.
Ryan Gelman, designee of Massachusetts State Senator Jamie Eldridge, Senate Chair of the Joint Committee on Financial Services
Ann Morse Hartner, designee of the President of the Women's Bar Association of Massachusetts
Maeve Kidney, designee of Massachusetts House Representative Tackey Chan, House Chair of the Joint Committee on Consumer Protection and Professional Licensure
Margot Parrot, Chairperson of the Permanent Commission on the Status of Women
Sara Schnorr, Governor Appointee from the Permanent Commission on the Status of Women
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz, House Chair of the Joint Committee on Financial Services

Members Not Attending:

Emma Friend, designee of Massachusetts State Senator Barbara L'Italien, Senate Chair of the Joint Committee on Consumer Protection and Professional Licensure

DOI Representatives in Attendance:

Hillary Berkowitz, Health Care Access Bureau
Sheri Cullen, Policy Form Review Unit
Mindy Merow Rubin, Legal Unit
Daniel Smith, Policy Form Review Unit
Marissa Vertes, Health Care Access Bureau

Call of 6th Meeting to Order by Chairman Representative Kevin Beagan:

A quorum was determined to be present, and Mr. Kevin Beagan, serving as representative for Insurance Commissioner Gary Anderson, Chairman of the Working Group on Gender Equity in Disability Policies (WG), called the meeting to order at 10:36 AM. Deputy Commissioner Beagan thanked members for coming to the Division for this meeting of the WG and introduced Ms. Schnorr as a newly-appointed member to the WG. Mr. Beagan explained that Commissioner Anderson had requested that the WG be reconvened in July 2017 to proceed with the development of the report requested Outside Section 173 of the FY 2017 Massachusetts Budget and that Mr. Beagan chair the WG meetings on behalf of the Commissioner.

Mr. Beagan then introduced Deputy General Counsel Joanne Campo, from the Office of Consumer Affairs and Business Regulation (OCABR), as identified in an email sent to members of the WG earlier that week. Mr. Beagan noted that Ms. Campo has been invaluable to the

Division in getting reports completed and reviewed efficiently. Mr. Beagan noted that Ms. Campo has been appointed to represent OCABR for the remainder of the WG meetings to assist in the process of producing a final report. Mr. Beagan then asked Ms. Campo to give some more background on her professional experience. Ms. Campo introduced herself as the Deputy General Counsel and Legislative Director for the OCABR. Ms. Campo thanked members of the WG for the opportunity to participate but noted since she joined at such a late date, she will be abstaining from voting in the meeting. Ms. Campo identified that the Undersecretary of OCABR thought she would be an asset to the WG, providing assistance in the review and filing of the report. Ms. Campo noted that as Mr. Beagan mentioned, she receives, reviews, and facilitates the processing and approval of all DOI reports for any sort of policy matter which arises and then circulates them to the Executive Office of Housing and Economic Development (EOHED) and the Governor's office. Ms. Campo has had a role with the DOI and other agencies as OCABR is the umbrella organization of varying organizations such as the Division of Banks, the Department of Telecommunications and Cable, the Division of Standards, and the Division of Professional Licensure. Mr. Beagan then noted that Ms. Campo assists him in being able to get reports done and noted that her joining will be a good sign of the final report being completed. Mr. Beagan then had all WG members identify themselves so Ms. Campo would know the names of all WG members.

Mr. Beagan proposed a schedule for the WG meeting that included reviewing and approving the minutes from the November 14, 2017 meeting and discussing the background information included in the WG's draft report. Mr. Beagan noted that any typographical edits should be forwarded to him via email. Mr. Beagan also noted that after discussion of the background material the WG should discuss recommendations and next steps going forward. Mr. Beagan expressed the hope that the open-ended parts of the report would be discussed and amended accordingly. Mr. Beagan stated that the last order of business would be to discuss the timeline.

Review of Meeting Minutes from November 14, 2017

Mr. Beagan noted that he would like to begin the meeting with the review and approval of the meeting minutes from the November 14, 2017 meeting. Mr. Beagan thanked WG members for assisting Ms. Vertes and other DOI members in updating and producing accurate minutes where appropriate. Mr. Beagan asked for a motion to be made to discuss the minutes, and it was moved. Ms. Schnorr noted that she had a comment regarding her title and identified that she is the appointee of the Governor from the Permanent Commission on the Status of Women. Mr. Beagan relayed his appreciation to Ms. Schnorr, stating that the minutes should properly reflect her title as mentioned in the law. Mr. Blundell noted that points he mentioned in his oral presentation were not reflected in the minutes, and requested that the following point be added to the minutes from November 14, 2017:

Mr. Blundell then highlighted that the industry should eliminate sex-based disparities because they are inappropriate in a policy matter, even though they reflect the risk of loss which is viewed as actuarially correct. Young men have more accidents and loss than women, and auto insurers are not permitted to rate by gender, nor are factors such as race and religion used to rate insurance when these factors correlate with insurance claims. This is because fairness and equity are more important social goals than actuarial correctness.

Mr. Beagan noted that it is appreciated that Mr. Blundell points out that the minutes were incorrect as they are being used in the draft report Mr. Beagan produced. Mr. Beagan asked if Mr. Blundell had any exact written comments, and Mr. Blundell stated that he did not. Mr. Beagan asked Mr. Blundell if he would like to postpone the approval of the minutes at this meeting so he can send written comments. Mr. Blundell declined and said that it would be easier to just record the oral testimony. Mr. Beagan noted that Ms. Vertes was recording the session and that if approved, she could use the oral testimony and insert it into the minutes. Ms. Vertes then noted that for the past few meetings, the WG approved minutes contingent on changes agreed upon in the meeting, and that if the WG agreed to approve these minutes contingent on the comments being added, it would be in line with how the WG has approved minutes thus far. Mr. Blundell and other WG members agreed that this would be a good approach to amending the minutes.

Mr. Beagan asked for a motion to approve the minutes, and the WG members agreed to approve the minutes, contingent on the inclusion of the changes suggested.

Review of the Draft Final Report of the WG

Mr. Beagan noted that the next order of business was to review the draft report, with the intent of producing a report with background information. Mr. Beagan noted that the last page of the report is intentionally left blank for analysis and recommendations as produced by the WG. Mr. Beagan tried to pull from easily found sources and tried to structure the report to provide background of the market, the statutes, different meetings, existing laws in the Commonwealth with any rules prohibiting rating being based on gender, information from Massachusetts group disability statutes, Federal rules with employment based benefits, and Massachusetts statutes for health, private passenger, and annuity products. Mr. Beagan also pulled information from previous meeting minutes including information on Montana, NAIC model regulation where appropriate, and the Interstate Product Regulation Commission to provide some background. Mr. Beagan pulled from other laws such as the Equal Rights Amendment (ERA), other anti-discrimination statutes, and court cases about gender neutral rating with the Massachusetts Supreme Judicial Court, and other information presented in the WG meetings such as the presentation from Tasha Khan, the actuary, and Victoria Budson and Shane Blundell, the policy presenters. Mr. Beagan then stated that this does not need to be the format of the final report, but he proposed the specific format he provided to provide background information for anyone picking up the report. Mr. Beagan then highlighted that on page 7 of the draft report, that the information regarding the data on the status of the Individual Disability Income Insurance market is incomplete and will be coming in the next week. A few companies needed vetted information, and it will be forwarded within the next week. Mr. Beagan then opened up the floor for discussion of the structure of the report.

Discussion of the Formatting of the Draft Final Report of the WG

Ms. Hartner thanked Mr. Beagan for his work on the report and stated it was a good start. Mr. Beagan then asked if other individuals had comments or suggestions on the structure, including the background information and if certain things need or need not be included or presented differently. Mr. Clayburn noted that the report seems to have quite a bit of reference in it to group DI insurance and that the report should be focused on Individual. Mr. Clayburn suggested that certain areas could be changed to be focused more on Individual. The interstate compact

reference should be updated because in 2012 the individual DI standards were completed, and the reference attached focuses on group. Mr. Clayburn then noted that he is not sure if it needs to be researched to include the appropriate piece focusing on individual. Mr. Beagan thanked Mr. Clayburn, saying that page 12 of the draft report is the only part that is truly specific to group products, and that he would look into adding the individual standards for the Interstate Compact. Mr. Beagan suggested putting these rules in there to show for individuals the current state of the group market. Mr. Clayburn suggested that individual information showing up before the group information would make more sense for the report. Ms. Parrot said that she appreciated seeing both group and individual information in the report because the group information informs the WG on what happens with the majority of policies in the state. Ms. Parrot noted that when the group is talking about changing 11 percent of the market to come closer to matching the 89 percent of the market it is good to have the two things to compare. Ms. Hartner agreed with Ms. Parrot regarding this point. Mr. Beagan agreed to change the section on the Compact, and asked Mr. Clayburn to send any more comments via email. Mr. Clayburn noted on page 16 that the first sentence misused the term “prohibit” when talking about gender neutral rating, and stated that he would add the comment in his email to Mr. Beagan. Ms. Erickson then stated that it is true that all 50 states except for Montana have laws that prohibit gender neutral rates, including Massachusetts. Ms. Erickson suggested leaving the sentence out entirely. Mr. Beagan added that he included this sentence to highlight that other states have enacted these laws to show that there has been a prohibition of gender neutral rating for other lines of insurance.

Mr. Beagan then asked if there were any comments on how he presented the information from Ms. Khan, Ms. Budson, and Mr. Blundell by using previous meetings’ minutes. Mr. Clayburn noted that he likes the approach Mr. Beagan took. Ms. Erickson noted that regarding Ms. Khan’s presentation, the minutes reflect a lot more of the back and forth conversation from after the presentation and that it would make sense to include some bullet points from the actual presentation which informed the discussion. Ms. Erickson said that she would contact Ms. Khan to get her feedback on this section of the report. Mr. Clayburn then noted that he liked the way the report was set up with having the two separate presentations. He also suggested attaching Ms. Khan’s report as an exhibit. Mr. Beagan noted that this was listed in the table of contents. Mr. Beagan then asked for more suggestions from the WG members.

Ms. Parrot announced that she had handed out a rough draft of her proposal for the final recommendation of the WG. Mr. Beagan said that this is the next step after finishing up the discussion of the background. Ms. Hartner commented that since Title VII has been mentioned in meetings of the WG, court cases relevant to Title VII such as the 1983 Norris case and the 1978 Manhart case should be cited on page 12 of the report. Mr. Beagan noted that he would have no issue adding these cases into the report but would not know where to find them. He noted that if Ms. Hartner had any suggestions on the matter she should forward them to him. Ms. Parrot then noted that under Title E, that the report lists Title VIII instead of Title VII.

Mr. Beagan then suggested an item on page 14 that an individual outside the WG asked why homeowners insurance was not included in the report as gender neutral. Mr. Beagan noted that there is no statute prohibiting rating by gender for homeowners insurance; there is a statute that prohibits underwriting by gender, but not rating. Mr. Beagan then reminded members of the working group that underwriting deals with the issuing and renewal of a product. Mr. Beagan

stated that this individual suggested that there be a section talking about how homeowners insurance is not rated by gender at this time, and that it is different from statute as it is based on the actuarial filings from the companies, not recognizing gender as a rating characteristic. Mr. Beagan asked if this section would be something that the WG would like to include. Ms. Hartner suggested that a note on this matter could be useful for the report. Ms. Erickson then asked Mr. Beagan if he was going to mention inland marine insurance and professional liability insurance. Ms. Erickson continued that if you are insuring a house, actuarial statistics do not have data based on gender of the likelihood of a house catching on fire or getting damaged in a hurricane. This is why gender is not included in that underwriting. Ms. Erickson also added that the more types of insurance mentioned in this report with this viewpoint, the more the issue at hand gets confused. Mr. Beagan noted that this is being brought up because an interested party was confused as to why there was no law. Ms. Erickson noted that there is in fact a law, and that rating by gender would be an unfair trade practice and the Division of Insurance would never approve a product like that. Mr. Beagan stated that Ms. Erickson is correct and that this is not included in any law for home insurance; the Division would require an actuarial basis for anything that is reviewed and approved by the Division. Ms. Parrot then stated that she would keep the report to products for which there exists actuarial data. Ms. Hartner then added that the unfair and discriminatory acts are added to the regulation as a consumer protection and not a rating issue, and that this is included at this point. Mr. Beagan then asked if the WG could move forward to discuss and consider a proposed schedule from that point until the next meeting.

Discussion of Proposed Schedule for WG

Mr. Beagan noted that this meeting would be the second to last meeting of the WG, with the last meeting being on January 4, 2018. Mindful of paperwork, Mr. Beagan suggested that any recommendations for edits regarding grammar and typos should be forwarded to the Division by the Friday following the meeting. The recommendation reports and the minority report, if applicable, should be forwarded by the following Wednesday, December 27, 2017. Mr. Beagan would then circulate all gathered materials by Friday, December 29, 2017 to all WG members. If there are any additional changes and suggestions, the final should be sent in by January 3, 2018 at noon to be brought to the open meeting on January 4, 2018. Mr. Beagan wanted to take time to propose this because time is short and to meet the January 4, 2018 timeline and to produce a report, that this would be a good approach to do so. Mr. Beagan asked if any WG members had any comments regarding the timeline. Ms. Parrot noted that the scheduled hearing for the bill regarding this topic is scheduled for January 9, 2018, which is close to the January 4, 2018 date. Mr. Beagan stated that if there is a vote on January 4, 2018 to accept the report with the revisions included within, the report can be adopted at that point. Mr. Beagan then asked Ms. Campo if at that point the report would be ready to be cleaned up and made available to the public. Ms. Campo then stated it would be a final product and asked if it would need to be circulated through the Governor's office. Mr. Beagan reminded Ms. Campo that the Division is just the chair of the WG and that this is not a Division report. Ms. Campo then stated that the report would be filed contingent on approval. Mr. Beagan confirmed that if the report is approved, the Division will catch all the edits and make the documents available. Ms. Parrot and Mr. Sheridan both noted then that the report could be submitted after the hearing to the committee. Mr. Beagan then reminded group members that he was asking if they could accept the timeline proposed as it was demanding their time and attention. Mr. Beagan motioned to discuss the timeline, and Ms. Parrot moved the motion, as did Ms. Hartner and Ms. Erickson. Mr. Beagan asked, because there was

no discussion, to move to support and agree to this timeline, and it was moved unanimously.

Mr. Beagan then moved forward, stating that the last part of the discussion should focus on the law expecting that the WG should not only provide analysis but also produce a recommendation. Mr. Beagan then quoted the law, Section 173 of Chapter 133 of the Acts of 2016¹ (Chapter 133) requires that a report be submitted to the Legislature by the Working Group on Gender Equity in Disability Insurance (the “Working Group”) to:

“study the costs and benefits of prohibiting insurance companies in the commonwealth from making any distinctions in disability policy payments, premiums or rate charges, or any other terms or conditions of any group or individual disability, accident or sickness insurance contract based on a person’s race, color, religion, sex, marital status, or national origin. The working group shall submit its findings, along with any legislative recommendations, to the clerks of the senate and house of representatives.”

At this point Mr. Beagan noted that the WG is to entertain recommendations, and that they have received recommendations from Ms. Parrot and Ms. Hartner, and that other members of the WG may also have other recommendations as well. Mr. Beagan then suggested that the WG members entertain presentation of the recommendations from Ms. Parrot and Ms. Hartner.

Presentation of Recommendations from WG Members Margot Parrot and Ann Morse Hartner

Ms. Parrot thanked Mr. Beagan and noted that going backwards from the recommendation to the findings makes logical sense because a recommendation needs to be supported with findings. Ms. Parrot stated that she would like the WG to recommend that the Massachusetts Legislature prohibit gender rating in individual disability policies. She suggested an effective date of 1 year after the passage of the legislation to give the market time to adjust. Ms. Parrot noted that the original legislation suggests that individual DI products stop being rated by gender by 2011, a timeline that is clearly outdated. Ms. Parrot then noted that the recommendation should be based upon findings, and she pulled findings right out of the report. Ms. Parrot suggested to start with the Equal Rights Amendment, the cornerstone of the argument, which was passed to prevent this type of discrimination. Federal law and regulations do not allow rating based on gender in group disability products. Most other types of insurance policies in Massachusetts are gender neutral and have not caused a lack of availability of coverage. Mr. Beagan interjected that the motion to discuss the recommendations had not been made yet and stated that once the motion has been made, Ms. Parrot should discuss her recommendation. Mr. Beagan then asked Ms. Hartner for an overview of her recommendation.

Ms. Hartner then stated that her recommendation is very similar to Ms. Parrot’s in that she started with the Equal Rights Amendment and then discussed regulations. Ms. Hartner then recommended that the Massachusetts General Court prohibit gender discrimination in DI insurance. Mr. Beagan then made note that he wanted to allow the two papers to be identified and that there have been no other papers at that time that had recommendations included, and that there should be a motion to consider how to proceed with the recommendations going forward or if either Ms. Hartner or Ms. Parrot would cede to the other for the recommendation.

¹ See <https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter133>.

Ms. Parrot noted that she and Ms. Hartner would like to work on a merger of their two recommendations, and Ms. Hartner agreed. Mr. Beagan then asked Ms. Parrot if she was making a motion to suggest her recommendation as the recommendation that the WG consider. Ms. Parrot stated she would make that motion, and it was moved. Mr. Beagan asked if anyone had any questions or comments or if Ms. Parrot had anything more she would like to add in further than what her motion considers right now. Ms. Parrot asked Ms. Hartner what she would add from her recommendation into Ms. Parrot's recommendation. Mr. Beagan then noted that the key piece is the recommendation and that analysis can be added at a later date. Ms. Parrot noted that she would keep her recommendation but change the Massachusetts Legislature to Massachusetts General Court. Mr. Beagan then asked for any further discussion or thoughts. Mr. Blundell noted that he would be supportive of a recommendation consistent with Ms. Hartner and Ms. Parrot's recommendation. Ms. Erickson then stated that this was the time for her to make a few comments.

Presentation of Recommendation from WG Member Jenny Erickson

Ms. Erickson held up an issue of "Ms. Magazine" from February 1988 where she is quoted about gender neutral insurance because she worked for a company at the time which supported the concept of gender neutral rating. Ms. Erickson was on a panel at a conference of women state legislators and was debating Mr. Clayburn's colleague on whether gender neutral insurance was a good idea. Ms. Erickson then stated that she has had over 30 years to think about this issue and that at that time, a lot of state legislatures were thinking about whether or not gender based insurance rates were discriminatory. Montana was the only state that took action. Massachusetts did take regulatory action in the late 1980s, but it got overturned because of the lack of statutory authority to do so. It has not been an issue taken up by states since the mid to late 1980s. Ms. Erickson continued that Massachusetts does have an equal rights amendment which prohibits discrimination by gender, but it is important to discuss what discrimination is outside of a constitutional argument or focus. Discrimination is about treating someone unfairly, and the evidence shown by Ms. Khan irrefutably shows that individual DI premiums are higher for women because the claims are so much more expensive. Ms. Erickson continued that when an individual comes to an insurance company because of a risk of financial loss such as getting into an accident, a house burning down, or becoming disabled, individuals are paying the insurance company to assume their financial risk, and the insurance companies in turn are pricing the product to assume that risk. Ms. Erickson quoted Ms. Khan, saying, "Premiums are designed to match the risk as closely as possible."

Ms. Erickson then pointed to the draft report presented and stated that it is considered to be an unfair trade practice for the insurance industry not to rate based on gender, as shown in a section called unfair discrimination. This section outlines that this practice of rating based on gender is to make or permit any unfair discrimination between individuals of the same class and essentially of the same hazard in the amount of premium. By law, we have to charge people of the same hazard the same premium for their insurance whether it is disability insurance or any other insurance. Ms. Erickson noted that it is almost making a moral choice, because if women and men are charged the same amount of money for their disability insurance, the companies will in turn be charging men too much in premium for their insurance. So, there will be a tradeoff for discrimination against women to discrimination against men because they will be paying more in premium than their risk presents, and women will pay less than their risk presents. Ms. Erickson

then questioned the gender neutral rating by asking, “What is fair? Is it fair to men to do that?”

Ms. Erickson continued that she has had a lot of time to think about this and has argued both sides of the argument. Ms. Erickson has come to personally believe that it is not unfair to charge women more than men because of the risk that they present. Ms. Erickson noted that it is certainly in the legislature’s ability to prevent the insurance industry from rating by gender, but it is a basic issue of fairness. This fairness is one of the reasons why the insurance companies have not been sued and there has not been any legal action against charging a gender based premium for disability insurance. Even the federal law about employee benefits allows insurance companies to charge employers based on how many women and how many men are part of their risk pool. There are exemptions for actuarial justification in federal laws such as the ADA because it is generally considered to be fair to make a distinction, and discrimination also means distinction. It is not unfair make a distinction in gender rated insurance products where there is irrefutable actuarial evidence that there is a claims cost difference between the two genders. Ms. Erickson then directed her comments to Mr. Beagan, stating that the DOI approves these policies because we prove to you that this is actuarially necessary every time they are submitted.

As a closing statement, Ms. Erickson noted that Ms. Khan stated in her presentation that if DI premiums are forced to be gender neutral, not only are men going to be paying more than they should be, but everyone will. The price of disability insurance will go up overall because if you have more women in the risk pool, women have more expensive claims and therefore the premium cost will go up due to the claims cost going up. Also, as recognized in Ms. Parrot’s proposal, there will be market disruption. Ms. Erickson noted that this disruption could possibly last for more than a year and insurance companies will have to raise their premiums to make sure that they are setting them correctly. Ms. Erickson also added that as Mr. Clayburn mentioned earlier, premiums are unable to be changed after they are set. So, the price will go up for everyone, not just for men. Disability insurance is an expensive product; it is a safety net, but there is no requirement to have it. People will probably drop the coverage because of cost, leaving fewer people with this coverage if action is taken to make the gender neutral rating mandatory.

Discussion of Presentations of Recommendations

Mr. Beagan then asked for further discussion. Ms. Parrot stated that while she appreciates the discussion in terms of risk, we have decided as a society that there are a number of ways that we can pool risk. There is probably actuarial data on racial disparities in health and other insurance risks, but we cannot and do not discriminate based on race. Race is an immutable characteristic one cannot help being born into, and insurance companies cannot set premiums based on that factor. Ms. Parrot argued that since gender is pretty much immutable, it is therefore not a matter of fairness to men to charge women more; it is a matter of fairness to the human race. We cannot help how we are born, whether it is race, national origin, or gender. Ms. Parrot believes we need to pool risks as a society without singling out characteristics that are immutable.

Ms. Hartner noted that she has always had trouble with the concept of fair discrimination, but she has heard about it for a long time. There have not been any cases on the constitutionality of the ERA in Massachusetts because Ms. Hartner and others have been working with the legislature for almost 30 years to change the law. Ms. Schnorr then added that while she understands the

actuarial risk differences in individual DI insurance, we as a society have decided to ignore the actuarial rate differences in other lines of insurance such as automobile insurance and not charge based on gender in those industries. Ms. Schnorr has confidence that given existing experience in pricing group DI products, actuaries will be able to come up with an algorithm to price unisex premiums in the individual market that will hit a premium “sweet spot.” Ms. Schnorr continued that like Ms. Parrot, she is concerned about the single mothers and single women who are the large majority of single breadwinners in the Commonwealth. Individual DI insurance is part of their safety net, and the statute says the WG is supposed to make recommendations to study the costs and benefits. There will be costs, as the WG knows. The real question is what the benefits are. Is the cost factor so great that we should discount the benefit of providing one level premium or the benefit to society of women being able to access these products equally? Ms. Schnorr concluded that this should be the focus of the WG’s analysis.

Ms. Parrot then suggested that an eighth bullet point be added to her notes from Ms. Hartner’s handout:

“There is evidence of harm to women of gender based pricing. The benefits to women of ending gender-based pricing outweigh any cost.”

Ms. Parrot continued that this statement is the premise upon which we make the recommendation because it is missing from her recommendation, and that the issue at hand is a social judgment. Ms. Erickson then added that using the word “evidence” means that we have been presented with concrete proof about how many women have tried to buy disability insurance and have found it to be unaffordable. Ms. Erickson acknowledged that it is not incorrect to assume, but the word “evidence” takes it a bit far because there is none in the report. Mr. Clayburn then added it is taking a huge step assuming that passing a bill to prohibit gender rating will automatically cause women’s rates to drop to the level of men’s rates. As an actuary, he noted that if insurance companies cannot sustain the costs, they are not going to underprice the products being offered. Mr. Clayburn also pointed out that health insurance and car insurance are mandatory, making those products easier to price because the pool of applicants is known. Since an individual product has an unknown pool, determining the specific risk of the potential customer is important. Ms. Erickson added that it is an assumption to think that women’s premiums will go down; women’s premiums may stay the same and men’s might go up. It depends on the pricing dynamics and customer base of the company. Equality does not necessarily mean women’s premiums will go down to meet men’s.

Ms. Kidney then asked if, given the legislation passed in Montana, there is an idea of how the market was effected by the legislation. She also asked why other states did not follow in their footsteps. Mr. Beagan added that from conversations with Montana’s Insurance Department, Montana does not track a good deal of information on the products in that state. Mr. Beagan did not have anything highlighting why other states did not follow. When the DOI contacted Montana, those who were there when the law was enacted are no longer there, making it difficult to get good information. Mr. Beagan asked for further questions.

Voting on the Recommendations Presented at the Meeting of the WG

Mr. Beagan stated that a recommendation had been submitted by Ms. Parrot that the Massachusetts General Court prohibit the rating of DI policies based on gender. Mr. Beagan then asked if there is a motion to accept this recommendation. Ms. Erickson then asked if there is going to be an opportunity to propose a recommendation during or after the meeting because she and Mr. Clayburn were unaware of the actual recommendation proposal at the meeting today. Mr. Beagan said that after voting on this recommendation he wants to open up the floor for any other recommendations to be made and that this recommendation is not the only one. Mr. Beagan wants to give an opportunity for a majority and minority opinion. Ms. Erickson asked what the timing is for recommendations. Mr. Beagan stated that they wanted to complete the recommendations today. Mr. Clayburn noted that he knew from the beginning of the meetings of this WG that there would be two opinions. Mr. Clayburn then asked what the December 27 due date entails, because he assumed it was to submit the recommendations from the voted majority and minority opinions. Ms. Erickson then noted she would like to produce something in writing and not orally to be voted on. Because the intent was not clear for recommendations, Mr. Beagan then asked the group if December 27, 2017 would be acceptable for submission of the minority and majority recommendations. Ms. Erickson asked if it would be acceptable to do an oral recommendation and then submit a written version of the recommendation to the members of the WG within the following days. Mr. Beagan said it would be fine if Ms. Erickson and Mr. Clayburn submitted an oral presentation today and then followed up with a written recommendation later. Ms. Erickson agreed that is what she is proposing and that it will not disturb the timeline. Mr. Beagan noted that the recording will allow for a recording of the oral recommendation.

Mr. Beagan then asked to proceed with the moving of the recommendation from Ms. Parrot. Mr. Beagan noted that it would be useful to have a roll call vote on record. Ms. Erickson asked if the findings of the recommendation were being voted on, and Ms. Parrot said only the recommendation, not the findings. Mr. Sheridan asked if he could abstain and go over the recommendations with his boss. Mr. Beagan said that would most likely hold things up and that Ms. Campo and he would be abstaining. He deferred to the group if it would be okay for Mr. Sheridan to proceed with his abstention. Ms. Parrot noted that she does not believe the open meeting law allows voting in absentia, to which Mr. Beagan said he would look to the lawyers in the room for advising on this matter. Mr. Beagan noted that Mr. Sheridan would most likely not be allowed to change his vote after today. Ms. Parrot noted that maybe abstaining now would allow Mr. Sheridan to sign on to a majority or minority opinion at the last meeting when voting on the final report. Mr. Beagan then continued that the motion stands that Ms. Parrot's recommendation needs to be voted on with changing "Legislature" to "General Court." Mr. Beagan asked Ms. Vertes to get a roll call vote. The voting was as follows:

Name	Vote
Kevin Beagan	A
Shane Blundell	Y
Joanne Campo	A
Steven Clayburn	N
Jenny Erickson	N
Ryan Gelman	Y

Ann Morse Hartner	Y
Maeve Kidney	A
Margot Parrot	Y
Sara Schnorr	Y
Timothy Sheridan	A

Mr. Beagan then asked Ms. Vertes for the total votes in each category. Ms. Vertes noted that there were 4 “Abstentions”, 5 “Yes”, and 2 “No”. Mr. Beagan then noted that now the group may proceed with hearing and considering any other recommendations from the WG. Ms. Erickson said that she would like to use Ms. Parrot’s recommendation, with her permission, and use the word “not” in it. Ms. Parrot agreed. Ms. Erickson then stated that she would like the recommendation to say on the record:

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Insurance that the Massachusetts General Court does not prohibit gender rating in individual disability policies.

Mr. Beagan then noted the recommendation and asked for a second, and Mr. Clayburn seconded the motion. Mr. Beagan then opened up the floor for discussion. With no discussion, Mr. Beagan asked Ms. Vertes for another roll call vote on Ms. Erickson’s recommendation. The voting was as follows:

Name	Vote
Kevin Beagan	A
Shane Blundell	N
Joanne Campo	A
Steven Clayburn	Y
Jenny Erickson	Y
Ryan Gelman	N
Ann Morse Hartner	N
Maeve Kidney	A
Margot Parrot	N
Sara Schnorr	N
Timothy Sheridan	A

Mr. Beagan then asked Ms. Vertes for the total votes in each category. Ms. Vertes noted that there were 4 “Abstentions”, 2 “Yes”, and 5 “No”. Mr. Beagan stated that because the “Yes” votes were a minority, the motion did not pass.

Mr. Beagan then asked for more recommendations if they exist. Mr. Beagan, hearing nothing, asked if there were any thoughts on the process going forward. Mr. Beagan noted that it would be useful to have a volunteer from the majority of the poll produce a recommendation and analysis for the December 27, 2017 date. Since Ms. Parrot submitted the recommendation, Mr. Beagan asked her if she would like to write the recommendation and analysis to be included in the report. Ms. Parrot then asked what this analysis would entail besides the recommendation, as in findings of fact. Mr. Beagan answered that it could include the included findings of fact, and

even the additional bullet point suggested, that theoretically would be in it. Ms. Parrot agreed and then said she would work with Ms. Hartner and Ms. Schnorr to write the majority opinion. Mr. Beagan then asked Ms. Erickson and Mr. Clayburn if one would volunteer to write the minority opinion, and Ms. Erickson agreed that they would do it together. Mr. Beagan then thanked the volunteers and said it would be useful to have the recommendations in the report circulated on December 29, 2017 for consideration. Mr. Blundell then asked if the December 27, 2017 date will be the date that the majority opinion and the minority opinion will submit their recommendations to DOI and if these will be included in the final report being sent out on December 29, 2017. Mr. Beagan confirmed that is correct and requested that any final comments be submitted by 7 pm on January 3, 2018. On January 4, all edits will be included in the report for adoption. Mr. Blundell then asked if an adoption means another vote. Mr. Beagan confirmed that this is correct and that is why Mr. Beagan continues to show the edits to all group members. Mr. Beagan hopes that the draft on the 29th will include all edits from WG members and the final comments for January 3rd will just focus on typos.

Mr. Beagan then asked if there were any additional comments, questions, or concerns from the members. Mr. Clayburn noted that the law which formed the WG stated that there would be a report by the December 31, 2016. Mr. Clayburn then asked if there is going to be more explanation as to why that information was not included in the report. Mr. Beagan then added that he left that out because he had not intended to add that information, but suggested that Mr. Clayburn add in that as part of his edits to the report. Mr. Beagan also noted that he is not sure he knows how to represent why it was not done and the timing was short since the WG had only first met that October 2016. He believed that a suggestion was made that there should be some additional budget he has to look through notes to see what the former Commissioner noted. Mr. Clayburn then added that there is a noticeable gap in time from the December 2016 meeting to the July 2017 meeting and it seems the intent was to get an extension and get the date changed and it did not happen by the December 31, 2016 date. Mr. Blundell then noted, which Mr. Beagan confirmed, that there was a letter to the House and Senate Clerks. Mr. Beagan then stated that he needed to look for it as there was turnover between December 2016 and the present. Mr. Blundell stated that it would be good to include the statute and then include the letter to the clerks in the appendix. Mr. Clayburn added that it would provide a better timeline, and Mr. Beagan agreed. Ms. Parrot and Ms. Erickson then noted that they received the letters as a handout at a meeting and Mr. Beagan asked WG members if they had the letter to please forward it to his attention. Mr. Beagan then asked for any other matters. Ms. Hartner then noted that she previously failed to mention that her name has not been reflected properly in the meeting minutes and her name is in fact Ann Morse Hartner. Ms. Vertes confirmed that the spelling of Morse was correct. Mr. Beagan then noted that the minutes would be amended to reflect the correct name and spelling. Mr. Beagan then thanked all members for attending the meeting.

Adjournment of the WG

Thereupon, a motion to adjourn was submitted by Mr. Beagan, and it passed unanimously. The meeting adjourned at 12:05 PM on December 15, 2017.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

- Draft Meeting Minutes November 14, 2017
- Draft Written Report to be sent to the Legislature
- Proposed Timeline for the WG from December 15, 2017 to January 4, 2018
- Proposed Recommendation from Margot Parrot
- Proposed Recommendation from Ann Morse Hartner

Appendix H

Meeting Minutes of the Working Group on Gender Equity in Disability Insurance for the Meeting Held on Thursday, January 11, 2018 --- by a Vote of: - UNANIMOUS -.

January 11, 2018 Minutes of the Working Group on Gender Equity in Disability Insurance Held in Conference Room 1-E, 1000 Washington Street, Boston, Massachusetts 02118

Members Present:

Kevin Beagan, designee of Gary Anderson, Commissioner of Insurance
Shane Blundell, designee of Attorney General of the Commonwealth Maura Healey
Joanne Campo, designee of Undersecretary of the Office of Consumer Affairs and Business Regulation, John Chapman
Steven Clayburn, Governor Appointee from the American Council of Life Insurers
Jenny Erickson, designee of the Life Insurance Association of Massachusetts, Inc.
Emma Friend, designee of Massachusetts State Senator Barbara L'Italien, Senate Chair of the Joint Committee on Consumer Protection and Professional Licensure
Ryan Gelman, designee of Massachusetts State Senator Jamie Eldridge, Senate Chair of the Joint Committee on Financial Services
Ann Morse Hartner, designee of the President of the Women's Bar Association of Massachusetts
Maeve Kidney, designee of Massachusetts House Representative Tackey Chan, House Chair of the Joint Committee on Consumer Protection and Professional Licensure
Margot Parrot, Chairperson of the Permanent Commission on the Status of Women
Sara Schnorr, Governor Appointee from the Permanent Commission on the Status of Women
Timothy Sheridan, designee of Massachusetts House Representative Aaron Michlewitz, House Chair of the Joint Committee on Financial Services

DOI Representatives in Attendance:

Sheri Cullen, Policy Form Review Unit
Daniel Smith, Policy Form Review Unit
Marissa Vertes, Health Care Access Bureau

Call of 7th Meeting to Order by Chairman Representative Kevin Beagan:

A quorum was determined to be present, and Mr. Kevin Beagan, serving as representative for Insurance Commissioner Gary Anderson, Chairman of the Working Group on Gender Equity in Disability Policies (WG), called the meeting to order at 10:36 AM. Deputy Commissioner Beagan thanked members for coming to the Division for this meeting and thanked the members of the WG for their edits to the draft report that was circulated before the meeting. Mr. Beagan noted that he and others at the Massachusetts Division of Insurance worked to compile all edits made, and to reflect any specific comments made as well.

Review of the Meeting Minutes from December 15, 2017

Mr. Beagan then noted that all members of the WG should have a packet in front of them with a draft report, meeting minutes, and a page that was edited due to a correction made by WG member Joanne Campo. Mr. Beagan then noted that it would be good to first review and approve the minutes from the previous meeting before delving into the draft report. Mr. Beagan then

asked WG members if they had any edits to the meeting minutes from December 15, to which there were a few grammatical corrections. Mr. Beagan then asked if there was a motion to approve the minutes as amended during the meeting, and they were approved unanimously.

Review of the Draft Report of the WG

Mr. Beagan then began to explain that the draft report provided to the members of the WG in the meeting included revision marks from what was previously circulated using the “track changes” function in Word. This was done purposefully to show members what changed in the report from what was considered in the December 15, 2017 meeting, and to show any specific comments made about the report. Mr. Beagan then mentioned that the report was much larger than was previously circulated due to the inclusion of appendices that had previously been agreed to by the WG. Mr. Beagan then stated that it would be a good start to begin with the approval of the appendices and then to move into discussion of the report, and then the recommendations. Mr. Beagan asked for a motion to discuss the appendices and it was moved and seconded. Mr. Beagan then asked if there were any comments or edits to the appendices, and there were none. Hearing no comments, Mr. Beagan then asked members if there was a motion to accept the appendices as they are, and it was moved.

Mr. Beagan then suggested that the WG group move on to discuss the body of the report prior to the analysis and recommendation section. There was a motion to that effect and it was seconded and agreed to by the WG. The WG considered each revision mark change proposed by WG members prior to and during the meeting. Each change was explained by the person suggesting the change, discussed and accepted or modified to be accepted by the WG members. After reviewing all the proposed changes on each page of the body of the report prior to the Analysis and Recommendation section, Mr. Beagan then asked whether the WG members would consider approving the noted body of the report prior to the Analysis and Recommendation section, as amended by the discussion during the meeting. This was moved, seconded, and approved by the WG..

Mr. Beagan then asked members to focus on the section titled “Analysis and Recommendations” and for the WG members to consider all proposed recommendations put forth by WG members, including those put forth in the December 15, 2017 meeting, and to vote on them during the meeting. Ms. Parrot noted that she would appreciate having those who voted for the recommendations listed after the recommendation, to show the opinions of the members. The other WG members agreed.

Ms. Parrot made a motion to consider the following motion, as seconded by Ms. Morse Hartner (which was the same as in the draft document that was circulated):

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

Ms. Erickson made a motion to consider the following motion, as second by Mr. Clayburn which

was modified from what was in the draft document that was circulated):

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court not prohibit gender rating in individual disability policies issued in the Commonwealth.

Mr. Beagan asked whether there were any other motions that WG members would like to make for consideration of other recommendations. No WG made any other motions for consideration of any other recommendations.

Mr. Beagan asked Ms. Vertes to do a roll call vote, beginning with the recommendation from Ms. Parrot. Ms. Parrot's recommendation is as follows:

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

The vote was as follows:

Name	Vote
Kevin Beagan	A
Shane Blundell	Y
Joanne Campo	A
Steven Clayburn	N
Jenny Erickson	N
Emma Friend	Y
Ryan Gelman	Y
Ann Morse Hartner	Y
Maeve Kidney	A
Margot Parrot	Y
Sara Schnorr	Y
Timothy Sheridan	A

When Ms. Parrot's recommendation was considered, six Working Group members voted in favor of the motion, two voted opposed and four abstained from voting.

Mr. Beagan then asked Ms. Vertes to do a roll call vote for the recommendation from Ms. Erickson and Mr. Clayburn. The recommendation is as follows:

Therefore, it is the recommendation of the Working Group on Gender Equity in Disability Policies that the Massachusetts General Court not prohibit gender rating in individual disability policies issued in the Commonwealth.

The vote was as follows:

Name	Vote
Kevin Beagan	A
Shane Blundell	N

Joanne Campo	A
Steven Clayburn	Y
Jenny Erickson	Y
Emma Friend	N
Ryan Gelman	N
Ann Morse Hartner	N
Maeve Kidney	A
Margot Parrot	N
Sara Schnorr	N
Timothy Sheridan	A

When considered, two Working Group members voted in favor of the motion, six voted opposed and four abstained from voting.

Mr. Beagan thanked members for voting, and noted that with six of the 12 WG members voting in favor of the first motion, there would be a Plurality Opinion of the WG. Members agreed that the recommendation from Ms. Erickson and Mr. Clayburn should be reflected as the Minority Opinion.

Mr. Beagan then suggested that those WG members who were in the plurality supporting the recommendation should focus on any comments to be included in the Plurality Opinion. Minor changes were made to the text that had previously circulated and were agreed to by members of the plurality. In addition, members agreed that the final statement should read:

Therefore, it is our recommendation that the Massachusetts General Court enact legislation prohibiting gender rating in individual disability policies, with such legislation taking effect one year after its passage.

Mr. Beagan then suggested that those WG members who were in the minority regarding the recommendation should focus on any comments to be included in the Minority Option. Ms. Erickson reviewed text in the circulated draft and suggested changes to reformat what had been previously circulated to make modifications and remove signatures

Mr. Beagan then suggested that the WG go into recess so he Ms. Vertes could amend the Analysis and Recommendation section as suggested by the Group and to develop an Executive Summary that would encompass the work of the WG. Following the recess, Mr. Beagan presented the revised Analysis and Recommendation for consideration of the WG and requested a motion to consider accepting the amended section. The motion was made by Ms. Parrot and seconded by Mr. Clayburn. During discussion, a typographical error was identified and agreed to be corrected. The Analysis and Recommendation text, as amended, was put up for a vote and approved by the WG.

Mr. Beagan then asked members to look at a brief “Executive Summary” he created to provide clarity on the contents of the report. The motion to include the Executive Summary was made by Ms. Hartner and seconded by Mr. Clayburn. Mr. Blundell noted that the suggested draft should be amended in the last sentence to include the word “should”. The Executive Summary as

amended was put to a vote and passed unanimously.

Mr. Beagan then noted that at this time that the WG accepted the report and all its sections contingent on the changes discussed.

Next Steps for the WG

Mr. Beagan then thanked members for their time and stated that he and Ms. Vertes would incorporate all changes to the report by the beginning of the following week. Ms. Vertes would then distribute the report incorporating all the changes, and the draft meeting minutes for the current meeting. Ms. Hartner then questioned how the WG would vote on minutes of this the January 11, 2018 meeting. Ms. Parrot suggested that they could be left in draft form. Mr. Beagan then asked members if they felt another meeting would be appropriate to review the minutes. Mr. Beagan continued that he had been part of voice conference calls for various WG meetings, however, Ms. Schnorr reminded Mr. Beagan that a quorum would still be needed.

Ms. Schnorr made a motion that the members authorize the chair to prepare minutes, circulate them for members to comment on for typos and so forth, and for the members here at the January 11, 2018 meeting vote that absent of someone from the WG raising a substantive issue on the minutes for this January 11, 2018 meeting be approved as prepared by the chair as inclusive of technical corrections by the members. Mr. Beagan then stated that he heard a motion and asked for a second. The motion was discussed, and put to a vote which was unanimously agreed.

Mr. Beagan then asked members if there were any other items for the WG to discuss, and all members thanked the individuals from the DOI who have worked hard on preparing materials for the group.

Adjournment of the WG

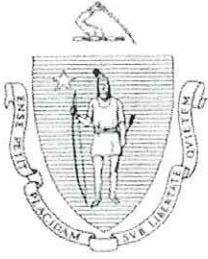
Thereupon, a motion to adjourn was requested by Mr. Beagan, made, second and passed unanimously. The meeting adjourned at 12:33 PM on January 11, 2018.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a).

List of Documents Presented at the Meeting

- Draft Meeting Minutes December 15, 2017
- Draft Written Report to be sent to the Legislature

Appendix I



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • Toll-free (877) 563-4467
<http://www.mass.gov/doi>

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

December 29, 2016

HAND DELIVERY

Steven T. James
House Clerk
Office of the Clerk of the House of Representatives
24 Beacon Street - Room 145
State House
Boston, MA 02133

RE: 2017 Budget Outside Section 173: Working Group on Gender Equity in Disability Policies


Dear Mr. James:

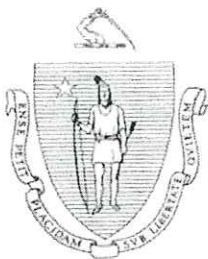
Outside Section 173 of the Massachusetts 2017 Budget ("Outside Section 173") provides for a Working Group on Gender Equity in Disability Policies ("Working Group"). I am the chair of this Working Group, which has held productive meetings to address the question of achieving gender equity in disability insurance policies.

Outside Section 173 also provides for the Working Group to submit its findings to the Clerks of the Massachusetts Senate and the House of Representatives by December 31, 2016, along with legislative recommendations. I am writing at this time on behalf of the Working Group, which has concluded that it will not be possible to submit a report by the noted date. The Working Group is in the process of defining the issues to be answered in the report and identifying the resources necessary to complete it.

When the Working Group met on December 1, 2016, including designees from the Massachusetts legislature, there was consensus that the Working Group needs additional time to continue its study of gender equity in disability policies. The Working Group expects its work to continue beyond the date established by Outside Section 173, and the contemplated report and legislative recommendations will be submitted upon their completion. Should you have any questions, please do not hesitate to contact me.

Sincerely,


Daniel R. Judson
Commissioner of Insurance



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • Toll-free (877) 563-4467
<http://www.mass.gov/doi>

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

December 29, 2016

HAND DELIVERY

William F. Welch
Senate Clerk
Office of the Clerk of the Senate
24 Beacon Street - Room 335
State House
Boston, MA 02133

RE: 2017 Budget Outside Section 173: Working Group on Gender Equity in Disability Policies

Dear Mr. Welch:

Outside Section 173 of the Massachusetts 2017 Budget ("Outside Section 173") provides for a Working Group on Gender Equity in Disability Policies ("Working Group"). I am the chair of this Working Group, which has held productive meetings to address the question of achieving gender equity in disability insurance policies.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Dan R. Judson".

Daniel R. Judson
Commissioner of Insurance