Advisory Memorandum

To: **All Long Term Care Insurers Operating in Montana**

From: **MONICA J. LINDEEN - Commissioner of Securities and Insurance**
Office of the Montana State Auditor [CSI]

Date: **October 27, 2009**

Prohibition Against Gender or Marital Status Discrimination In Long Term Care Insurance

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Since 1985, Montana law has prohibited discrimination based on gender or marital status in the issuance or operation of any insurance policy, plan, or coverage. The prohibition against discrimination applies to rates, premiums, and payments or benefits. Mont. Code Ann. § 49-2-309; *Bankers Life and Cas. Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993).

The Commissioner of Insurance previously issued an advisory memorandum to all long term care insurers reminding them of the prohibition against gender or marital status discrimination and that discounts cannot be based on gender or marital status. Instead, insurers could offer "caregiver," "multi-policy," "household" or other discounts, which the insurers could define, as long as gender or marital status was not a criterion for the discount. A copy of the advisory memorandum can be viewed on the website for the Commissioner of Securities and Insurance - Office of the Montana State Auditor at http://www.sao.mt.gov/bulletins/Longtermcare2003.pdf.

Enclosed is a questionnaire regarding whether gender or marital status is used in underwriting, rating, or policy forms including endorsements. Please complete and return the questionnaire by **December 1, 2009.** In addition, if gender or marital status are being used, please submit the appropriately revised underwriting, rating, or policy form documents, as set out in the questionnaire.

If you have questions regarding this matter, please contact the Insurance Department at (406) 444-3443 (Forms) or (406) 444-5220 (Rates).

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