

**CHAPTER 45-03-10
UNFAIR SEX DISCRIMINATION**

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45-03-10-01. Purpose.

The purpose of this rule is to eliminate the act of denying benefits or coverage on the basis of sex or marital status in the terms and conditions of insurance contracts and in the underwriting criteria of insurance carriers.

History: Effective July 1, 1988.

General Authority: NDCC 26.1-04-08

Law Implemented: NDCC 26.1-04-03(7), 26.1-04-03(11)

45-03-10-02. Definitions.

1. "Contracts" means any insurance policy, certificate, plan, or binder, including any rider or endorsement thereto offered by an insurer.
2. "Insurer" means any insurance company, association, reciprocal or interinsurance exchange, nonprofit hospital plan, nonprofit professional health service plan, health maintenance organization, fraternal benefit society, or beneficial association.

History: Effective July 1, 1988.

General Authority: NDCC 26.1-04-08

Law Implemented: NDCC 26.1-04-03(7), 26.1-04-03(11)

45-03-10-03. Applicability and scope.

This rule applies to all contracts delivered or issued for delivery in this state or renewed by the payment of premium or otherwise by an insurer on or after July 1, 1988, and to all existing group contracts which are substantially amended on or after July 1, 1988.

History: Effective July 1, 1988.

General Authority: NDCC 26.1-04-08

Law Implemented: NDCC 26.1-04-03(7), 26.1-04-03(11)

45-03-10-04. Availability requirements.

Availability of any insurance contract may not be denied to an insured or prospective insured on the basis of sex or marital status of the insured or prospective insured. The amount of benefits payable, or any term, conditions, or type of coverage may not be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured except to the extent the amount of benefits, term, conditions, or type of coverage vary as a result of the application of rate differentials permitted under the North Dakota insurance code. However, nothing in this section prohibits an insurer from taking marital status into account for purposes of defining persons eligible for dependent benefits, except with regard to legally recognized minor children. Specific examples of practices prohibited by this section include, but are not limited to, the following:

1. Denying coverage to females gainfully employed at home, employed part time, or employed by relatives when coverage is offered to males similarly employed.

2. Denying policy riders to females when the riders are available to males.
3. Denying maternity benefits to insureds or prospective insureds purchasing an individual contract when comparable family coverage contracts offer maternity benefits.
4. Denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees.
5. Denying disability income contracts to employed women when coverage is offered to men similarly employed.
6. Treating complications of pregnancy differently from any other illness or sickness under the contract.
7. Restricting, reducing modifying, or excluding benefits relating to coverage involving the genital organs of only one sex.
8. Offering lower maximum monthly benefits to women than to men who are in the same classification under a disability income contract.
9. Offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same classifications under a disability income contract.
10. Establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract.
11. Limiting the amount of coverage an insured or prospective insured may purchase based upon the insured's or prospective insured's marital status unless such limitation is for the purpose of defining persons eligible for dependents' benefits.

History: Effective July 1, 1988; amended effective January 1, 2008.

General Authority: NDCC 26.1-04-08

Law Implemented: NDCC 26.1-04-03(7), 26.1-04-03(11)