

Bulletin 161

Unfair discrimination against the handicapped

June 15, 1989

It has come to my attention that some insurers and agents may be unaware of the restrictions under the Maine Insurance Code on underwriting and rating based on physical or mental handicap. Title 24-A M.R.S.A. Section 2159-A prohibits declining, canceling or non-renewing coverage; limiting the amount, extent or kind of coverage; or charging a higher rate, based on a handicap, unless justified by sound actuarial evidence. "Handicap" is defined in Title 5 M.R.S.A. Section 4553(7-A) as follows:

"Physical or mental handicap" means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Insurers are reminded of these standards and requested to review all company and field force standards and procedures to assure compliance. Persons determined, after hearing, to have violated Section 2159-A shall be subject to a cease and desist order, violation of which may result in a fine of up to \$10,000. Violators of Section 2159-A may also be subject to loss of license authority.

Consumers who believe they have been unfairly discriminated against due to a physical or mental handicap should contact the Consumer Division of the Bureau of Insurance at the following address or telephone number:

Bureau of Insurance
State House Station #34
Augusta, Maine 04333
(207) 582-8707

Joseph A. Edwards
Superintendent of Insurance

NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and regulations and to contact the Bureau of Insurance if additional information is needed.