§ 2606. Discrimination because of race, color, creed, national origin, or disability. (a) Except as provided in section one thousand one hundred eight of this chapter, no individual or entity subject to the supervision of the superintendent shall because of race, color, creed, national origin, or disability:

(1) Make any distinction or discrimination between persons as to the premiums or rates charged for insurance policies or in any other manner whatever.

(2) Demand or require a greater premium from any persons than it requires at that time from others in similar cases.

(3) Make or require any rebate, discrimination or discount upon the amount to be paid or the service to be rendered on any policy.

(4) Insert in the policy any condition, or make any stipulation, whereby the insured binds themselves, or their heirs, executors, administrators or assigns, to accept any sum or service less than the full value or amount of such policy in case of a claim thereon except such conditions and stipulations as are imposed upon others in similar cases; and any such stipulation or condition so made or inserted shall be void.

(b) Except as provided in section one thousand one hundred eight of this chapter, no individual or entity subject to the superintendent's supervision shall solely because of the applicant's race, color, creed, national origin, or disability:

(1) Reject any application for a policy of insurance issued and/or sold by it.

(2) Refuse to issue, renew or sell such policy after appropriate application therefor.

(3) Fix any lower rate or discriminate in the fees or commissions of agents or brokers for writing or renewing such a policy.

(c) For the purposes of this section "disability" shall have the same meaning as ascribed thereto in subdivision twenty-one of section two hundred ninety-two of the executive law.

(d) The prohibition of subsection (a) of this section shall not preclude an insurer from including a pre-existing condition provision as permitted pursuant to regulations of the superintendent or from establishing selection criteria on the basis of disability where the insurer can prove that its decision was based on sound underwriting and

actuarial principles reasonably related to actual or anticipated loss experience. In such case the selection criteria permitted must be based on such principles. The insurer shall notify the insured of its specific reason or reasons for such decision.

(e) If it can be proven that the provisions of subsection (d) of this section are inadequate to address such actual or anticipated loss experience, the prohibition of subsection (b) of this section shall not preclude an insurer from establishing selection criteria on the basis of disability. In such case the selection criteria permitted must be based on such principles. The insurer shall notify the insured of its specific reason or reasons for such decision.

(f) Nothing in this section shall permit an insurer to include a pre-existing condition provision or establish selection criteria for individual and small group health insurance policies which are inconsistent with sections three thousand two hundred thirty-one, three thousand two hundred thirty-two, four thousand three hundred seventeen and four thousand three hundred eighteen of this chapter.