



Ohio Revised Code

Section 3901.45 Effect of sexual orientation, HIV, or AIDS or related condition.

Effective: November 1, 1989

Legislation: Senate Bill 2 - 118th General Assembly

(A) As used in sections 3901.45 and 3901.46 of the Revised Code:

(1) "AIDS," "HIV," "AIDS-related condition," and "HIV test" have the same meanings as in section 3701.24 of the Revised Code.

(2) "Insurer" means any person authorized to engage in the business of life or sickness and accident insurance under Title XXXIX of the Revised Code or any person or governmental entity providing health services coverage for individuals on a self-insurance basis.

(3) "Group policy" means, with respect to life insurance, a policy covering more than twenty-five individuals and issued pursuant to section 3917.01 of the Revised Code, and with respect to sickness and accident insurance, a policy covering more than twenty-five individuals and issued pursuant to section 3923.11, 3923.12, or 3923.13 of the Revised Code. "Group policy" includes a certificate of life or sickness and accident insurance covering more than twenty-five individuals under a group policy issued to a multiple employer trust.

(4) "Individual policy" means, with respect to life insurance and sickness and accident insurance, a policy other than a group policy, except that "individual policy" also includes all of the following:

(a) The coverage under a group policy of an individual who seeks to become a member of an insured group after having declined a previous offer of coverage under the group policy;

(b) An individual who seeks life insurance coverage under a group policy in excess of the maximum coverage available under the policy without evidence of insurability;

(c) A certificate of life or sickness and accident insurance covering no more than twenty-five individuals under a group policy issued to a multiple employer trust.



(B) In processing an application for an individual policy of life or sickness and accident insurance or in determining insurability of an applicant, no insurer shall:

(1) Take into consideration an applicant's sexual orientation;

(2) Make any inquiry toward determining an applicant's sexual orientation or direct any person who provides services to the insurer to investigate an applicant's sexual orientation;

(3) Make a decision adverse to the applicant based on entries in medical records or other reports that show that the applicant has sought an HIV test, consultation regarding the possibility of developing AIDS or an AIDS-related condition, or counseling for concerns related to AIDS from health care professionals unless there has been a diagnosis, confirmed by a positive HIV test, of AIDS or an AIDS-related condition or the applicant has been treated for either.

(C)(1) In developing and asking questions regarding medical histories and lifestyles of applicants for life or sickness and accident insurance and in assessing the answers, an insurer shall not ask questions designed to ascertain the sexual orientation of the applicant nor use factors such as marital status, living arrangements, occupation, gender, medical history, beneficiary designation, or zip code or other geographic designation to aid in ascertaining the applicant's sexual orientation.

(2) An insurer may ask the applicant if he has ever been diagnosed as having AIDS or an AIDS-related condition.

(3) An insurer may ask the applicant specifically whether he has ever had a positive result on an HIV test. "Positive result" means a result interpreted as positive in accordance with guidelines developed by the director of health under division (B)(1) (a) of section 3701.241 of the Revised Code, even though the applicant may have been tested in another state. "Positive result" does not mean an initial positive result that further testing showed to be false.

(4) The insurer shall not ask the applicant whether he has ever taken an HIV test.

(D)(1) Except as provided in division (D)(2) of this section, no insurer shall cancel a policy of life or sickness and accident insurance, or refuse to renew a policy of life or sickness and accident insurance



other than a policy that is renewable at the option of the insurer, based solely on the fact that, after the effective date of the policy, the policyholder is diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.

(2) If a policy of life or sickness and accident insurance provides for a contestability period, an insurer may cancel the policy during the contestability period if the applicant made a false statement in the application with regard to the question of whether he has been diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.

(E) No insurer shall deliver, issue for delivery, or renew a policy of life or sickness and accident insurance that limits benefits or coverage in the event that, after the effective date of the policy, the insured develops AIDS or an AIDS-related condition or receives a positive result on an HIV test.

(F) An insurer is not required to offer coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, who has AIDS or an AIDS-related condition, or who has had a positive result on an HIV test.

(G) An insurer is not required to continue to provide coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, if the insurer determines the individual or group member or dependent of the individual or group member knew on the effective date of the policy that he had AIDS, an AIDS-related condition, or a positive result of an HIV test.

(H) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.