



Ohio Revised Code

Section 3901.46 Requiring HIV testing.

Effective: February 12, 2004

Legislation: House Bill 6 - 125th General Assembly

As used in this section, "membership organization" means a fraternal or other association or group of individuals involved in the same occupation, activity, or interest that is organized and maintained in good faith for purposes other than to obtain insurance and is not organized or maintained for the purpose of engaging in activities for gain or profit.

(A) In underwriting an individual policy of life or sickness and accident insurance or a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, an insurer may require an applicant for coverage under the policy to submit to an HIV test only in conjunction with tests for other health conditions. No applicant shall be required to submit to an HIV test on the basis of the applicant's sexual orientation or factors described in division (C)(1) of section 3901.45 of the Revised Code that are used to ascertain the applicant's sexual orientation.

(B)(1) An insurer that requests an applicant to take an HIV test shall obtain the applicant's written consent for the test and shall inform the applicant of the purpose of the test. The consent form shall include information about the tests to be performed, the confidentiality of the results, procedures for notifying the applicant of the results, and a general interpretation of test results.

(2) The superintendent of insurance shall adopt rules under Chapter 119. of the Revised Code establishing the form and content of the consent required under division (B)(1) of this section.

(C) An insurer may disclose the results of a positive HIV test only to the following persons:

(1) The applicant;

(2) The applicant's or insured's physician or other health care provider if the applicant or insured provides the insurer with prior written consent for disclosure;



- (3) Another person that the applicant or insured specifically designates in writing;
- (4) A medical information exchange for insurers operated under procedures intended to ensure confidentiality, including the use of general codes for results of tests for a number of diseases and conditions as well as for AIDS or an AIDS-related condition.
- (D) The HIV test or tests to be given the applicant shall be a test or tests approved by the director of health pursuant to division (B) of section 3701.241 of the Revised Code. Test results shall be interpreted strictly in accordance with guidelines for the use of the tests adopted by the director.
- (E) The requirements of division (B) of section 3701.24 and sections 3701.242 and 3701.243 of the Revised Code do not apply to insurers in the underwriting of an individual policy of life or sickness and accident insurance or of a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, except that an insurer may make use of the procedures in division (C) of section 3701.243 of the Revised Code.
- (F) In underwriting a group policy of life or sickness and accident insurance, no insurer shall require an individual seeking coverage, other than an individual seeking coverage under the policy of a membership organization, to submit to an HIV test.
- (G) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.