

/* VERMONT has enacted statutes encompassing insurance practices, labor practices, and employment practices, as well as access to health care. */

Title 3, Subchapter 4. Unfair Labor Practices

961. Employers

It shall be an unfair labor practice for an employer:

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(7) To request or require an applicant, prospective employee or employee to have an HIV-related blood test as a condition of employment.

(8) To discriminate against an applicant, prospective employee or employee on the basis of a person's having a positive test result from an HIV-related blood test.

Title 8, Chapter 129. Insurance Trade Practices

4724. Unfair methods of competition or unfair or deceptive acts or practices defined

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

(7) Unfair discrimination.

(A) Making or permitting any unfair discrimination between insureds of the same class and equal risk in the rates charged for any contract of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contracts.

(B) Making or permitting unfair discrimination against an applicant or an insured, on the basis of the sex or marital status of the applicant or insured, with regard to:

(i) underwriting standards and practices or eligibility requirements; or

(ii) rates; however, nothing in this subdivision shall prevent any person who contracts to insure another from setting rates for such insurance in accordance with reasonable classifications based on relevant actuarial data or actual cost experience in accordance with section 4656 of this title.

(8) Rebates.

(A) Except as otherwise expressly provided by law, knowingly permitting or

offering to make or making any contract of insurance or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, any rebate or premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever of value not specified in the contract.

(B) Making available through any rating plan or form, property, casualty or surety insurance to any firm, corporation or association of individuals, any preferred rate or premium based upon any fictitious grouping of such firm, corporation or individuals. The grouping of risks by way of membership, nonmembership, license, franchise, employment, contract, agreement, or any other method or means, when the grouping of risks have no preferred characteristic over similar risks written on an individual basis, for the purpose of insuring such grouped risks at a preferred rate or premium or on a preferred form is a "fictitious grouping." This subdivision shall not apply to life or health and disability insurance or annuity contracts.

(C) Nothing in subdivision (7) or (8)(A) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses;

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expenses thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

9) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a business practice any of the following:

(A) misrepresenting pertinent facts or insurance policy provisions relating

to coverage at issue;

- (B) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (C) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (D) refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (E) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (F) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (G) attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made a part of the application;
- (11) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (I) making claim payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are made;
- (J) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (K) delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (L) failing to promptly settle claims where liability has become reasonably clear under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- (M) failing to promptly provide a reasonable explanation on the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

1128. Access to health services and testing

(a) No health care provider or facility shall request or require any applicant for care or services or any client or patient to have an HIV-related blood test as a condition for receiving unrelated treatment or service nor shall any such provider or facility discriminate against any applicant, client or patient on the basis of a person's having a positive test result from an HIV-related blood test. Nothing in this section shall preclude health care providers or facilities from recommending testing for medically appropriate diagnostic purposes or from administering to clients or patients who consent to have an HIV-related blood test.

(b) Failure of a health care provider to comply with any provision of this section shall constitute grounds for disciplinary action or any other regulatory action authorized by law. Failure of a health care facility to comply with any provision of this section shall constitute grounds for modification, suspension or revocation of the facility's license, authority to operate, or any other regulatory action authorized by law. Any such regulatory action shall be taken in accordance with the disciplinary, licensing or other procedures established by law for the board or agency having jurisdiction over the health care provider or facility

(c) A person aggrieved by a violation of this section or the attorney general on behalf of such a person may bring an action for injunctive relief and damages in the superior court of the county in which the violation is alleged to have occurred. The court may award costs and reasonable attorney's fees to an aggrieved person who prevails in an action brought under this subsection.

Title 21, Chapter 5 employment practices

495. Unlawful employment practice

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, ancestry, place of birth, age, or physical or mental condition:

(1) For any employer, employment agency or labor organization to discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth, or age or against a qualified handicapped individual;

(2) For any person seeking employees or for any employment agency or labor organization to cause to be printed, published or circulated any notice or advertisement relating to employment or membership indicating any

preference, limitation, specification or discrimination based upon race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth, age or handicapping condition;

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth, or age or against a qualified handicapped individual;

(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth, or age to discriminate against any individual or against a qualified handicapped individual or to limit, segregate or qualify its membership;

(5) For any employer, employment agency, or labor organization to discharge or in any other manner discriminate against any employee because such employee has lodged a complaint of discriminatory acts or practices or has cooperated with the attorney general or a state's attorney in an investigation of such practices, or is about to lodge a complaint or cooperate in an investigation, or because such employer believes that such employee may lodge a complaint or cooperate with the attorney general or state's attorney in an investigation of discriminatory acts or practices;

(6) For any employer, employment agency, labor organization or person seeking employees to discriminate against, indicate a preference or limitation, refuse properly to classify or refer, or to limit or segregate membership, on the basis of a person's having a positive test result from an HIV-related blood test;

(7) For any employer, employment agency, labor organization or person seeking employees to request or require an applicant, prospective employee, employee, prospective member, or member to have an HIV-related blood test as a condition of employment or membership, classification, placement, or referral.

(c) The provisions of this section prohibiting discrimination on the basis of age shall apply for the benefit of persons 18 years of age or older.

(d)(1) An employee shall not have a cause of action in negligence for any injury occurring to the employee on the account of an employer complying with subdivisions (a)(6) and (7) of this section.

(2) A person shall not have a cause of action in negligence for any injury occurring to the person on the account of an employer complying with subdivisions (a)(6) and (7) of this section.

(e) The provisions of this section prohibiting discrimination on the basis of

sexual orientation shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from taking any action with respect to matters of employment which is calculated by the organization to promote the religious principles for which it is established or maintained.

(f) The provisions of this section prohibiting discrimination on the basis of sexual orientation shall not be construed to change the definition of family or dependent in an employee benefit plan.