Chapter 659

2009 EDITION

Miscellaneous Prohibitions Relating to Employment and Discrimination

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659.010 [Amended by 1957 c.724 §3; 1959 c.547 §5; 1959 c.689 §13; 1961 c.247 §2; 1963 c.622 §3; 1969 c.618 §1; 1973 c.714 §5; 1977 c.770 §12; 1979 c.813 §1; 1983 c.225 §1; 1987 c.319 §5; 1987 c.393 §1; 1989 c.317 §3; 1989 c.686 §1; 1991 c.652 §13; 1991 c.939 §5; 1993 c.719 §3; 1993 c.798 §32; 1995 c.343 §56; 1995 c.580 §15; 1997 c.30 §1; 1999 c.245 §2; repealed by 2001 c.621 §90]

659.015 [1959 c.547 §2; 1959 c.689 §2; renumbered 659A.009 in 2001]

659.020 [Amended by 1969 c.618 §2; 1977 c.770 §13; 1983 c.225 §2; 1989 c.224 §125; renumbered 659A.006 in 2001]

659.022 [1963 c.622 §2; 1969 c.618 §2a; 1977 c.770 §14; 2001 c.621 §49; renumbered 659A.003 in 2001]

659.024 [1959 c.547 §3; 1963 c.622 §5; 1965 c.575 §1; 1973 c.189 §2; repealed by 1977 c.770 §15]

659.025 [Subsection (1) enacted as 1981 c.454 §1; subsection (2) enacted as 1981 c.242 §1; 1989 c.224 §126; renumbered 659A.012 in 2001]

659.026 [1959 c.689 §3; 1973 c.189 §3; repealed by 1977 c.770 §15]

659.027 [1983 c.183 §1; renumbered 659A.015 in 2001]

659.028 [1969 c.618 §8; 1981 c.643 §1; 1987 c.279 §1; renumbered 659A.321 in 2001]

659.029 [1977 c.330 §2; renumbered 659A.029 in 2001]

659.030 [Amended by 1969 c.618 §3; 1977 c.770 §1; 1977 c.801 §1a; 1981 c.595 §1; 1981 c.643 §2; 1983 c.477 §1; 1983 c.820 §17; 1985 c.98 §4; 1985 c.151 §1; 1987 c.279 §2; 1993 c.33 §359; 2001 c.621 §50; renumbered 659A.030 in 2001]

659.031 [1959 c.584 §2; 1973 c.714 §6; renumbered 659A.420 in 2001]

659.032 [1957 c.725 §2; repealed by 1959 c.584 §4]

659.033 [1957 c.725 §3; 1959 c.584 §3; 1973 c.714 §7; 1975 c.384 §1; 1989 c.523 §4; 1989 c.686 §2; 1995 c.559 §44; 1997 c.235 §1; 2001 c.621 §18; renumbered 659A.421 in 2001]

659.034 [1957 c.725 §4; repealed by 1959 c.584 §4]

659.035 [1981 c.470 §5; 1985 c.404 §3; 1989 c.890 §10; 2001 c.621 §40; renumbered 659A.233 in 2001]

659.036 [1993 c.719 §2; 1995 c.680 §6; 2001 c.621 §51; 2001 c.739 §11; renumbered 659A.303 in 2001]

659.037 [1957 c.724 §10; 1973 c.714 §8; 1977 c.770 §2; 1995 c.79 §336; 2001 c.621 §52; renumbered 659A.409 in 2001]

659.038 [1999 c.627 §2; repealed by 2001 c.621 §90]

659.040 [Amended by 1957 c.724 §13; 1971 c.723 §1; 1977 c.453 §2; 1977 c.770 §3; repealed by 2001 c.621 §90]

659.045 [1957 c.724 §5; 1969 c.618 §4; 1973 c.714 §9; 1977 c.453 §2; 1977 c.770 §4; 1995 c.343 §57; repealed by 2001 c.621 §90]

659.050 [Amended by 1957 c.724 §6; 1963 c.622 §6; 1971 c.723 §2; 1975 c.503 §1; 1987 c.393 §2; repealed by 2001 c.621 §90]

659.055 [1963 c.622 §4; repealed by 2001 c.621 §90]

659.060 [Amended by 1957 c.724 §7; 1961 c.145 §1; 1963 c.622 §7; 1971 c.418 §20; 1971 c.723 §3; 1975 c.419 §1; 1987 c.393 §3; repealed by 2001 c.621 §90]

659.070 [Amended by 1963 c.622 §10; 1983 c.225 §3; 1999 c.245 §3; 1999 c.788 §44; repealed by 2001 c.621 §90]

659.080 [Amended by 1957 c.724 §8; 1961 c.145 §2; 1963 c.622 §11; repealed by 1971 c.734 §21]

659.085 [1971 c.734 §103; repealed by 2001 c.621 §90]

659.090 [Repealed by 1971 c.734 §21]

659.095 [1977 c.453 §4; 1979 c.843 §1; repealed by 2001 c.621 §90]

659.100 [Amended by 1957 c.724 §9; 1959 c.547 §6; 1959 c.689 §14; 1961 c.145 §3; 1963 c.622 §8; part renumbered 659.103; 1969 c.618 §5; 1971 c.322 §1; 1973 c.714 §10; 1977 c.770 §5; 1981 c.643 §3; 1987 c.279 §3; 1989 c.224 §127; 1995 c.343 §58; 2001 c.621 §53; renumbered 659A.800 in 2001]

659.102 [Subsection (1) enacted as 1959 c.547 §4; subsection (2) enacted as 1959 c.689 §4; repealed by 1977 c.770 §15]

659.103 [Formerly part of 659.100; 1969 c.618 §6; 1973 c.714 §11; 2001 c.621 §54; renumbered 659A.805 in 2001]

659.105 [1963 c.622 §9; 1975 c.503 §2; 1987 c.393 §4; 2001 c.621 §55; renumbered 659A.890 in 2001]

659.110 [Amended by 1957 c.724 §14; 2001 c.621 §56; renumbered 659A.810 in 2001]

659.115 [1955 c.534 §1; 1969 c.618 §7; 2001 c.621 §57; renumbered 659A.815 in 2001]

659.120 [Repealed by 1955 c.534 §2]

659.121 [1977 c.453 §6; 1979 c.813 §2; 1981 c.897 §95; 1983 c.225 §4; 1987 c.822 §1; 1989 c.165 §3; 1989 c.317 §4; 1989 c.686 §4; 1989 c.1044 §6; 1991 c.342 §2; 1993 c.798 §33; 1995 c.580 §16; 1999 c.245 §1; repealed by 2001 c.621 §90]

659.130 [Repealed by 1955 c.534 §2]

659.131 [1977 c.771 §1; renumbered as (1),(2),(3) of 659.340]

659.136 [1977 c.771 §2; renumbered as (4) of 659.340]

659.140 [Repealed by 1955 c.534 §2]

659.150 [1975 c.204 §1; 1989 c.224 §128; renumbered 659.850 in 2001]

659.155 [1975 c.204 §3; 1989 c.491 §64; 1999 c.200 §35; renumbered 659.855 in 2001]

659.160 [1987 c.276 §2; 1995 c.618 §116; renumbered 659.860 in 2001]

659.165 [1993 c.556 §1; 1995 c.618 §117; renumbered 659.870 in 2001]

659.175 [1983 c.823 §3; renumbered 659.865 in 2001]

659.210 [Renumbered 659.815 in 2001]

659.220 [Amended by 1979 c.389 §1; 1981 c.897 §96; renumbered 659.820 in 2001]

659.225 [1963 c.249 §1; 1981 c.301 §1; renumbered 659.840 in 2001]

659.227 [1979 c.318 §1; 1981 c.301 §2; 1989 c.892 §1; 1995 c.680 §7; 2001 c.621 §58; renumbered 659A.300 in 2001]

659.230 [Renumbered 659.805 in 2001]

659.240 [Renumbered 659.800 in 2001]

659.250 [Renumbered 659.845 in 2001]

659.260 [Renumbered 659.810 in 2001]

659.270 [1980 c.1 §3; 2001 c.621 §59; renumbered 659A.236 in 2001]

659.280 [1981 c.867 §2; 1989 c.165 §1; renumbered 659A.250 in 2001]

659.285 [1981 c.867 §3; 1989 c.165 §2; 2001 c.621 §86a; renumbered 659A.253 in 2001]

659.290 [1981 c.867 §4; 1989 c.165 §7; renumbered 659A.256 in 2001]

659.295 [1981 c.867 §5; 2001 c.621 §87; renumbered 659A.259 in 2001]

659.297 [1989 c.165 §§4,5,6; 2001 c.621 §27; renumbered 659A.262 in 2001]

659.320 [1957 c.548 §1; 1973 c.140 §1; renumbered 659.825 in 2001]

659.322 [1991 c.875 §5; 1995 c.506 §5; 1999 c.59 §198; renumbered 659.830 in 2001]

659.324 [1995 c.506 §7; 2001 c.621 §19; renumbered 659.835 in 2001]

659.330 [1979 c.595 §1; 2001 c.621 §60; renumbered 659A.306 in 2001]

659.340 [(1), (2), (3) formerly 659.131; (4) formerly 659.136; 1983 c.225 §5; 1985 c.565 §90; 2001 c.621 §61; renumbered 659A.309 in 2001]

659.358 [1991 c.652 §§2,4; 2001 c.621 §20; renumbered 659A.312 in 2001]

659.360 [1987 c.319 §2; repealed by 1995 c.580 §18]

659.365 [1987 c.319 §3; repealed by 1995 c.580 §18]

659.370 [1987 c.319 §4; repealed by 1995 c.580 §18]

659.380 [1989 c.892 §3; 2001 c.621 §62; renumbered 659A.315 in 2001]

659.385 [1989 c.822 §2; repealed by 1995 c.580 §18]

659.389 [1989 c.822 §3; repealed by 1995 c.580 §18]

659.391 [1989 c.822 §4; repealed by 1995 c.580 §18]

659.393 [1989 c.822 §5; 1991 c.939 §6; repealed by 1995 c.580 §18]

659.400 [1973 c.660 §2; 1979 c.640 §1; 1989 c.224 §129; 1997 c.854 §12; 2001 c.621 §21; renumbered 659A.100 in 2001]

659.405 [1973 c.660 §3; 1979 c.640 §2; 1989 c.224 §130; 2001 c.621 §29; renumbered 659A.103 in 2001]

659.410 [1973 c.660 §4; 1989 c.1044 §1; 1999 c.245 §4; 2001 c.621 §30; renumbered 659A.109 in 2001]

659.412 [1989 c.850 §2; 1995 c.332 §62; renumbered 659A.052 in 2001]

659.415 [1973 c.660 §5; 1979 c.813 §3; 1981 c.874 §14; 1989 c.1044 §1; 1990 c.2 §45; 1995 c.332 §60; renumbered 659A.043 in 2001]

659.417 [1987 c.884 §45; renumbered 659A.049 in 2001]

659.420 [1973 c.660 §6; 1979 c.813 §4; 1995 c.332 §61; 2001 c.621 §35; renumbered 659A.046 in 2001]

659.425 [1973 c.660 §7; 1979 c.640 §3; 1989 c.224 §131; 1997 c.854 §13; renumbered 659A.142 in 2001]

659.430 [1973 c.660 §8; 1979 c.640 §4; 1983 c.225 §6; 1989 c.686 §3; 1995 c.79 §337; 2001 c.300 §56; 2001 c.621 §24; renumbered 659A.145 in 2001]

659.435 [1973 c.660 §9; repealed by 2001 c.621 §90]

659.436 [1997 c.854 §2; renumbered 659A.112 in 2001]

659.437 [1997 c.854 §3; renumbered 659A.115 in 2001]

659.439 [1997 c.854 §4; 2001 c.621 §36; renumbered 659A.118 in 2001]

659.440 [1997 c.854 §5; renumbered 659A.121 in 2001]

659.442 [1997 c.854 §6; renumbered 659A.124 in 2001]

659.444 [1997 c.854 §7; renumbered 659A.127 in 2001]

659.446 [1997 c.854 §8; renumbered 659A.130 in 2001]

659.447 [1997 c.854 §9; renumbered 659A.133 in 2001]

659.448 [1997 c.854 §10; renumbered 659A.136 in 2001]

659.449 [1997 c.854 §11; renumbered 659A.139 in 2001]

659.450 [1989 c.1044 §3; 1991 c.90 §1; 1999 c.245 §6; 2001 c.621 §37; renumbered 659A.060 in 2001]

659.455 [1989 c.1044 §4; 1991 c.90 §2; 1999 c.245 §5; 1999 c.313 §15; 2001 c.621 §38; renumbered 659A.063 in 2001]

659.460 [1989 c.1044 §5; 2001 c.621 §39; renumbered 659A.066 in 2001]

659.470 [1995 c.580 §1; renumbered 659A.150 in 2001]

659.472 [1995 c.580 §2; renumbered 659A.153 in 2001]

659.474 [1995 c.580 §3; renumbered 659A.156 in 2001]

659.476 [1995 c.580 §4; renumbered 659A.159 in 2001]

659.478 [1995 c.580 §5; renumbered 659A.162 in 2001]

659.480 [1995 c.580 §6; renumbered 659A.165 in 2001]

659.482 [1995 c.580 §7; renumbered 659A.168 in 2001]

659.484 [1995 c.580 §8; renumbered 659A.171 in 2001]

659.486 [1995 c.580 §9; renumbered 659A.174 in 2001]

659.488 [1995 c.580 §9a; renumbered 659A.177 in 2001]

659.490 [1995 c.580 §10; renumbered 659A.180 in 2001]

659.492 [1995 c.580 §11; 2001 c.621 §88; renumbered 659A.183 in 2001]

659.494 [1995 c.580 §12; renumbered 659A.186 in 2001]

659.505 [1989 c.890 §2; 2001 c.621 §41; renumbered 659A.200 in 2001]

659.510 [1989 c.890 §3; 2001 c.621 §42; renumbered 659A.203 in 2001]

659.515 [1989 c.890 §4; 2001 c.621 §43; renumbered 659A.206 in 2001]

659.520 [1989 c.890 §5; 2001 c.621 §44; renumbered 659A.209 in 2001]

659.525 [1989 c.890 §6; renumbered 659A.212 in 2001]

659.530 [1989 c.890 §7; 2001 c.621 §45; renumbered 659A.215 in 2001]

659.535 [1989 c.890 §8; 2001 c.621 §46; renumbered 659A.218 in 2001]

659.540 [1989 c.890 §9; 2001 c.621 §47; renumbered 659A.221 in 2001]

659.545 [1989 c.890 §1; 2001 c.621 §48; renumbered 659A.224 in 2001]

659.550 [1991 c.342 §1; 2001 c.621 §63; renumbered 659A.230 in 2001]

659.560 [1991 c.939 §2; repealed by 1995 c.580 §18]

659.565 [1991 c.939 §3; repealed by 1995 c.580 §18]

659.570 [1991 c.939 §4; repealed by 1995 c.580 §18]

659.700 [1995 c.680 §1; 1997 c.780 §1; 1999 c.921 §§1,2; 2001 c.588 §§11,12; renumbered 192.531 in 2001]

659.705 [1995 c.680 §2; 1997 c.780 §2; 2001 c.588 §13; renumbered 192.533 in 2001]

659.710 [1995 c.680 §3; 2001 c.588 §14; renumbered 192.535 in 2001]

659.715 [1995 c.680 §4; 1997 c.780 §3; 2001 c.588 §15; renumbered 192.537 in 2001]

659.720 [1995 c.680 §5; 2001 c.588 §16; renumbered 192.539 in 2001]

PROHIBITIONS RELATING TO EMPLOYMENT

(Employment Action Related to Communication of Employer About Religious or Political Matters)

659.780 Definitions. As used in this section and ORS 659.785:

(1) "Constituent group" includes, but is not limited to, civic associations, community groups, social clubs and mutual benefit alliances, including labor organizations.

(2) "Employee" means an individual engaged in service to an employer in a business of the employer.

(3) "Employer" includes:

(a) A person engaged in business that has employees; and

(b) A public body, as defined in ORS 174.109.

(4) "Labor organization" means an organization that exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning griev-

ances, terms or conditions of employment or of other mutual aid or protection in connection with employment.

(5) "Political matters" includes activity related to political party affiliation, campaigns for measures, as defined in ORS 260.005, or candidates for political office and the decision to join, not join, support or not support any lawful political or constituent group.

(6) "Religious matters" includes activity related to religious affiliation or the decision to join, not join, support or not support a bona fide religious organization. [2009 c.658 §1; 2009 c.890 §1]

Note: 659.780 and 659.785 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659.785 Employer prohibited from taking action; civil action; notice; exceptions. (1) An employer or the employer's agent, representative or designee may not discharge, discipline or otherwise penalize or threaten to discharge, discipline or otherwise penalize or take any adverse employment action against an employee:

(a) Because the employee declines to attend or participate in an employer-sponsored meeting or communication with the employer or the agent, representative or designee of the employer if the primary purpose of the meeting or communication is to communicate the opinion of the employer about religious or political matters;

(b) As a means of requiring an employee to attend a meeting or participate in communications described in paragraph (a) of this subsection; or

(c) Because the employee, or a person acting on behalf of the employee, makes a good faith report, orally or in writing, of a violation or a suspected violation of this section. This paragraph does not apply if the employee knows that the report is false.

(2) An aggrieved employee may bring a civil action to enforce this section no later than 90 days after the date of the alleged violation in the circuit court of the judicial district where the violation is alleged to have occurred or where the principal office of the employer is located. The court may award a prevailing employee all appropriate relief, including injunctive relief, rehiring or reinstatement of the employee to the employee's former position or an equivalent position, back pay and reestablishment of any employee benefits, including seniority, to which the employee would otherwise have been eligible if the violation had not occurred and any other appropriate relief as deemed necessary by the court to make the employee whole. The court shall award a prevailing employee treble damages, together with reasonable attorney fees and costs.

(3) An employer subject to this section shall post a notice of employee rights under this section in a place normally reserved for employment-related notices and in a place commonly frequented by employees.

(4) This section does not:

(a) Limit an employee's right to bring a common law cause of action against an employer for wrongful termination;

(b) Diminish or impair the rights of a person under a collective bargaining agreement;

(c) Limit the application of ORS 260.432;

(d) Prohibit a religious organization from requiring its employees to attend an employer-sponsored meeting or participate in any communication with the employer or the employer's agent, representative or designee for the primary purpose of communicating the employer's religious beliefs, practices or tenets;

(e) Prohibit a political organization, including a political party or other organization that engages, in substantial part, in political matters, from requiring the political organization's employees to attend an employer-sponsored meeting or participate in any communication with the employer or the employer's agent, representative or designee for the primary purpose of communicating the employer's political tenets or purposes;

(f) Prohibit communications of information about religious or political matters that the employer is required by law to communicate, but only to the extent of the lawful requirement;

(g) Prohibit mandatory meetings of an employer's executive or administrative personnel to discuss issues related to the employer's business, including those issues addressed in this section; or

(h) Limit the rights of an employer to offer meetings, forums or other communications about religious or political matters for which attendance or participation is strictly voluntary. [2009 c.658 §2; 2009 c.890 §2]

Note: See note under 659.780.

(Use of Force or Misrepresentation to Secure or Prevent Employment)

659.800 Use of force or misrepresentation to prevent employment prohibited. (1) No person shall, by force, threats, or intimidation, prevent, or endeavor to prevent, any person employed by another from continuing or performing work, or from accepting any new work or employment.

(2) No person shall circulate any false written or printed matter, or be concerned in the circulation of any such matter, to induce others not to buy from or sell to or have dealings with any person, for the purpose or with the intent to prevent such person from employing any person, or to force or compel such person to employ or discharge from employment anyone, or to alter the mode of carrying on business, or to limit or increase the number of employees or the rate of wages or time of service. [Formerly 659.240]

659.805 Blacklisting and blackmailing prohibited. (1) No corporation, company or individual shall blacklist or publish, or cause to be blacklisted or published, any employee, mechanic or laborer discharged by such corporation, company or individual, with intent and for the purpose of preventing such employee, mechanic or laborer from engaging in or securing similar or other employment from any other corporation, company or individual.

(2) No officer or agent of any corporation or any other person shall, in any manner, conspire or contrive by correspondence or otherwise to prevent an employee discharged by such corporation or such person from securing employment. [Formerly 659.230]

659.810 Employer prohibited from filing false statement with employment agency to secure labor. (1) No employer of labor shall directly or through any agent, knowing and with intent to deceive, file with any employment agency as a preliminary to securing labor, a false written or printed statement of wages to be paid, work to be performed or living and working conditions.

(2) The failure or refusal of such employer to employ any laborer, to whom such written or printed statement has been delivered, is prima facie evidence of intent to deceive. [Formerly 659.260]

659.815 Deceptive representations or advertisements by persons employing labor prohibited. No person, firm, company, corporation, or association of any kind employing labor, shall, either in person or through any agent, manager or other legal representatives, induce, influence, persuade or engage workers to change from one place to another in this state or bring workers of any class or calling into this state to work in any of the departments of labor by:

(1) Any false or deceptive representation or false advertising, concerning the amount or character of the compensation to be paid for any work, or as to the existence or nonexistence of a strike, lockout or other labor troubles pending between employer or employees.

(2) Neglecting to state in the advertisement, proposal or inducement for the employment of workers that there is a strike, lockout or unsettled condition of labor, when such strike, lockout or unsettled condition of labor actually exists. [Formerly 659.210]

659.820 Right of worker to recover damages and attorney fees. (1) Any worker of this state, or any worker of another state, who is influenced, induced or persuaded to engage with any persons mentioned in ORS 659.815, through or by means of any of the things prohibited in that statute, shall have a right of action for:

(a) Recovery of all damages sustained in consequence of the false or deceptive representations, false advertising and false pretenses used to induce the worker to change the worker's place of employment against any persons, corporations, companies, or associations, directly or indirectly causing such damages, or $500, whichever is greater; and

(b) Such reasonable attorney fees at trial and on appeal as the court fixes, to be taxed in any judgment recovered.

(2) In any action brought under this section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. [Formerly 659.220]

(Prohibitions Related to Employee Benefits)

659.825 Employer failing to make agreed payments to employee benefit fund. Whenever an employer has agreed in writing with any employee to make payments to a health and welfare, dental, pension, vacation, apprenticeship and industry fund or any other such plan for the benefit of the employees, or has entered into a collective bargaining agreement providing for such payments, it shall be unlawful for such an employer willfully or with intent to defraud to fail to make the payments required by the terms of any such agreement. [Formerly 659.320]

659.830 Prohibitions and requirements related to health insurance. (1) An employee benefit plan may not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan because that individual is provided, or is eligible for, benefits or services pursuant to a plan under Title XIX of the Social Security Act. This section applies to employee benefit plans, whether sponsored by an employer or a labor union.

(2) A group health plan is prohibited from considering the availability or eligibility for medical assistance in this or any

other state under 42 U.S.C. 1396a (section 1902 of the Social Security Act), herein referred to as Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(3) To the extent that payment for covered expenses has been made under the state Medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.

(4) An employee benefit plan, self-insured plan, managed care organization or group health plan, a third party administrator, fiscal intermediary or pharmacy benefit manager of the plan or organization, or other party that is, by statute, contract or agreement legally responsible for payment of a claim for a health care item or service, may not deny a claim submitted by the state Medicaid agency under subsection (3) of this section based on the date of submission of the claim, the type or format of the claim form or a failure to present proper documentation at the point of sale that is the basis of the claim if:

(a) The claim is submitted by the agency within the three-year period beginning on the date on which the health care item or service was furnished; and

(b) Any action by the agency to enforce its rights with respect to the claim is commenced within six years of the agency's submission of the claim.

(5) An employee benefit plan, self-insured plan, managed care organization or group health plan, a third party administrator, fiscal intermediary or pharmacy benefit manager of the plan or organization, or other party that is, by statute, contract or agreement legally responsible for payment of a claim for a health care item or service, must provide to the state Medicaid agency or prepaid managed care health services organization described in ORS 414.725, upon the request of the agency or contractor, the following information:

(a) The period during which a Medicaid recipient, the spouse or dependents may be or may have been covered by the plan or organization;

(b) The nature of coverage that is or was provided by the plan or organization; and

(c) The name, address and identifying numbers of the plan or organization.

(6) A group health plan may not deny enrollment of a child under the health plan of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal tax return; or

(c) The child does not reside with the child's parent or in the group health plan service area.

(7) Where a child has health coverage through a group health plan of a noncustodial parent, the group health plan must:

(a) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(b) Permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payments on claims submitted in accordance with paragraph (b) of this subsection directly to the custodial parent, to the provider or, if a claim is filed by the state Medicaid agency, directly to the state Medicaid agency.

(8) Where a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the group health plan is required:

(a) To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(b) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program or the state agency administering 42 U.S.C. 651 to 669, the child support enforcement program; and

(c) Not to disenroll or eliminate coverage of the child unless the group health plan is provided satisfactory written evidence that:

(A) The court or administrative order is no longer in effect; or

(B) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

(9) A group health plan may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits from the plan if the requirements are different from requirements applicable to an agent or assignee of any other individual so covered.

(10)(a) In any case in which a group health plan provides coverage for dependent

children of participants or beneficiaries, the plan must provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply to the natural, dependent children of the participants and beneficiaries, regardless of whether the adoption has become final.

(b) A group health plan may not restrict coverage under the plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time that the child would otherwise become eligible for coverage under the plan if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(11) As used in this section:

(a) "Child" means, in connection with any adoption, or placement for adoption of the child, an individual who has not attained 18 years of age as of the date of the adoption or placement for adoption.

(b) "Group health plan" means a group health plan as defined in 29 U.S.C. 1167.

(c) "Placement for adoption" means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligations. [Formerly 659.322; 2007 c.484 §1]

659.835 Health insurance coverage for children of employees. Where a parent is required by a court or administrative order to provide health coverage that is available through an employer doing business in this state, the employer shall:

(1) Permit the parent to enroll under family coverage a child who is otherwise eligible for coverage without regard to any enrollment season restrictions.

(2) If the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program or the state agency administering 42 U.S.C. 651 to 669, the child support enforcement program.

(3) Not disenroll or eliminate coverage of a child unless the employer is provided satisfactory written evidence that:

(a) The court order is no longer in effect;

(b) The child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(4) Withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and pay this amount to the insurance provider. [Formerly 659.324]

(Testing)

659.840 Requiring breathalyzer or lie detector test prohibited; exception for breathalyzer test. (1) No person, or agent or representative of such person, shall require, as a condition for employment or continuation of employment, any person or employee to take a breathalyzer test, polygraph test or any other form of a so-called lie detector test. However, nothing in this section shall be construed to prohibit the administration of a breathalyzer test to an individual if the individual consents to the test. If the employer has reasonable grounds to believe that the individual is under the influence of intoxicating liquor, the employer may require, as a condition for employment or continuation of employment, the administration of a blood alcohol content test by a third party or a breathalyzer test. The employer shall not require the employee to pay the cost of administering any such test.

(2) For the purposes of this section, an individual is "under the influence of intoxicating liquor" when the individual's blood alcohol content exceeds the amount prescribed in a collective bargaining agreement or the amount prescribed in the employer's work rules if there is no applicable collective bargaining provision. [Formerly 659.225]

(Fraudulent Acceptance of Benefits From Employer)

659.845 Fraudulently accepting advancement and refusing to work prohibited. (1) No person shall, with intent to defraud, sign for and accept or receive transportation to or in the direction of a place of employment provided by or at the instance or expense of the proposed employer, or knowingly or with intent to defraud accept or receive the benefit of any other pecuniary advancements made by or at the instance or expense of the employer, as advances against wages for labor to be performed, and neglect to render service or perform labor or pay in money equal in value to such transportation or other benefits accepted or received.

(2) The failure of any person to render service, perform labor, or pay in money for such transportation or other benefits, shall be prima facie evidence of intent to defraud if:

(a) At or prior to the time of advancing such transportation or other benefits, the employer has delivered directly to such laborer or has filed in duplicate with the employment agency through which any such laborer is secured, one copy of which shall be delivered to such laborer, a written or printed statement setting forth the wages to be paid, the character of the work to be performed, and the living and working conditions; and

(b) The wages to be paid, the character of the work to be performed and the living and working conditions are as represented in such written or printed statement. [Formerly 659.250]

PROHIBITED DISCRIMINATION

(Discrimination in Education)

659.850 Discrimination in education prohibited; rules. (1) As used in this section, "discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability. "Discrimination" does not include enforcement of an otherwise valid dress code or policy, as long as the code or policy provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

(2) A person may not be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.

(3) The State Board of Education and the State Board of Higher Education shall establish rules necessary to ensure compliance with subsection (2) of this section in the manner required by ORS chapter 183. [Formerly 659.150; 2007 c.100 §29]

659.855 Sanctions for noncompliance with discrimination prohibitions. (1) Any public elementary or secondary school determined by the Superintendent of Public Instruction or any community college determined by the Commissioner for Community College Services to be in noncompliance with provisions of ORS 659.850 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the State Board of Education.

(2) Any public institution of higher education determined by the Chancellor of the Oregon University System to be in noncompliance with provisions of ORS 659.850 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the State Board of Higher Education.

(3) Any public charter school determined by the sponsor of the school or the Superintendent of Public Instruction to be in noncompliance with the provisions of ORS 659.850 and this section shall be subject to appropriate sanctions, which may include the withholding of all or part of state funding by the sponsor or superintendent, as established by rule of the State Board of Education. [Formerly 659.155]

659.860 Enforcement of ORS 659.850. (1) Any person claiming to be aggrieved by unlawful discrimination as prohibited by ORS 659.850 may file a civil action in circuit court for equitable relief or, subject to the terms and conditions of ORS 30.265 to 30.300, damages, or both. The court may order such other relief as may be appropriate. Damages shall be $200 or actual damages, whichever is greater.

(2) The action authorized by this section shall be filed within one year of the filing of a grievance.

(3) No action shall be filed unless, within 180 days of the alleged discrimination, a grievance has been filed with the school district board, public charter school governing body, community college board of education or State Board of Higher Education.

(4) No action may be filed until 90 days after filing a grievance unless only injunctive relief is sought pursuant to ORCP 79. The right to temporary or preliminary injunctive relief shall be independent of the right to pursue any administrative remedy available to complainants pursuant to ORS 659.850.

(5) No action may be filed if the school district board, public charter school governing body, community college board of education or State Board of Higher Education has obtained a conciliation agreement with the person filing the grievance or if a final determination of a grievance has been made except as provided in ORS 183.480.

(6) Notwithstanding the filing of a grievance, pursuant to subsection (3) of this section, any person seeking to maintain an action under this section shall also file a notice of claim within 180 days of the alleged discrimination as required by ORS 30.275.

(7) The court shall award reasonable attorney fees to a prevailing plaintiff in any action under this section. The court may award reasonable attorney fees and expert

witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

(8) Nothing in this section is intended to reduce the obligations of the education agencies under this section and ORS 659.850 and 659.855. [Formerly 659.160; 2007 c.256 §1]

(Discrimination Against Athletes)

659.865 Discrimination for participation in sanctioned athletic events prohibited. (1) No public or private organization or individual:

(a) Shall infringe in any manner on the right of an athlete to compete in or train for any athletic event duly sanctioned by the national governing body for that sport as recognized by the United States Olympic Committee.

(b) Shall levy any form of punishment or sanction against any athlete for participating in any athletic event duly sanctioned by the national governing body for that sport as recognized by the United States Olympic Committee.

(2) This section applies only to those sports under the jurisdiction of the United States Olympic Committee and known to be "Olympic" sports. [Formerly 659.175]

Note: 659.865 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Prohibition Against Certain Local Laws Relating to Sexual Orientation)

659.870 Political subdivisions prohibited from enacting or enforcing certain laws relating to sexual orientation; remedy. (1) A political subdivision of the state may not enact or enforce any charter provision, ordinance, resolution or policy granting special rights, privileges or treatment to any citizen or group of citizens on account of sexual orientation, or enact or enforce any charter provision, ordinance, resolution or policy that singles out citizens or groups of citizens on account of sexual orientation.

(2) Any person who believes that a political subdivision has enacted or is enforcing a charter provision, ordinance, resolution or policy in violation of this section may bring an action in circuit court to have the charter provision, ordinance, resolution or policy declared invalid, for injunctive relief and for such other relief as the court may consider appropriate. The court shall award reasonable attorney fees and costs to a plaintiff who prevails in an action under this subsection. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court. [Formerly 659.165]

Note: 659.870 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

659.990 Penalties. (1) Violation of ORS 659.815 is punishable, upon conviction, by a fine of not more than $1,000 or imprisonment in the county jail for not more than one year, or both.

(2) Violation of ORS 659.805 by any officer or agent of a corporation or any other person is punishable, upon conviction, by a fine of not less than $50 nor more than $250, or by imprisonment in the county jail not less than 30 nor more than 90 days, or both.

(3) Violation of ORS 659.800 is punishable, upon conviction, by a fine of not less than $10 nor more than $200 or by imprisonment in the county jail for not less than one month nor more than six months.

(4) Violation of ORS 659.810 or 659.845 is punishable, upon conviction, by a fine of not more than $100 or imprisonment in the county jail for not more than 60 days, or both.

(5) Any person who violates ORS 659.825, upon conviction, shall be required to make immediate restitution of delinquent payments to the fund or funds mentioned in ORS 659.825 and shall be punished by a fine of not more than $1,000 or imprisonment in the county jail for not more than one year, or both.

(6) Violation of ORS 659.840 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than one year, or by both. [Subsection (6) enacted as last sentence of 1957 c.548 §1; subsection (7) enacted as 1963 c.249 §2; 1973 c.140 §2; 2001 c.621 §64]