

§ 130A-414.3. Organ transplant discrimination on the basis of disability prohibited.

(a) It is unlawful for a covered entity to do any of the following, solely on the basis of an individual's disability:

- (1) Consider an individual ineligible to receive an anatomical gift or organ transplant.
- (2) Deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling, and post-operative treatment and services.
- (3) Refuse to refer the individual to a transplant center or other related specialist for the purpose of being evaluated for or receiving an organ transplant.
- (4) Refuse to place a qualified recipient on an organ transplant waiting list.
- (5) Place a qualified recipient on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual did not have a disability.
- (6) Refuse insurance coverage for any procedure associated with being evaluated for or receiving an anatomical gift or organ transplant, including post-transplantation and post-transfusion care.

(b) Notwithstanding the provisions of subsection (a) of this section, a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the disability has been found by a physician or surgeon, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(c) If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, a covered entity may not consider the individual's inability to independently comply with post-transplant medical requirements to be medically significant for the purposes of subsection (b) of this section.

(d) A covered entity shall make reasonable modifications to its policies, practices, or procedures to allow individuals with disabilities access to transplantation-related services, including diagnostic services, surgery, coverage, post-operative treatment, and counseling, unless the covered entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(e) A covered entity shall take steps necessary to ensure that an individual with a disability is not denied medical services or other services related to organ transplantation, including diagnostic services, surgery, post-operative treatment, or counseling, due to the absence of auxiliary aids or services, unless the covered entity demonstrates that taking these steps would fundamentally alter the nature of the medical services or other services related to organ transplantation or would result in an undue burden for the covered entity.

(f) The provisions of this section apply to all stages of the organ transplant process.

(g) Nothing in this Part shall be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant. (2021-64, s. 2(a).)