

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health Market Reform
 2 Subcommittee

3 Representative Fischer offered the following:

4

5 **Amendment**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 765.523, Florida Statutes, is created to
 8 read:

9 765.523 Discrimination in access to anatomical gifts and
 10 organ transplants prohibited.-

11 (1) As used in this section, the term:

12 (a) "Auxiliary aids and services" means:

13 1. Qualified interpreters or other effective methods of
 14 making aurally delivered materials available to individuals with
 15 hearing impairments.

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16 2. Qualified readers, recorded texts, texts in an
17 accessible electronic format, or other effective methods of
18 making visually delivered materials available to individuals
19 with visual impairments.

20 3. Supported decisionmaking services, including any of the
21 following:

22 a. The use of a support person to assist an individual in
23 making medical decisions, communicating information to the
24 individual, or ascertaining his or her wishes.

25 b. The provision of information to a person designated by
26 the individual, consistent with federal and state laws governing
27 the disclosure of health information.

28 c. Measures used to ensure that the individual's guardian
29 or legal representative, if any, is included in decisions
30 involving the individual's health care and that medical
31 decisions are in accordance with the individual's own expressed
32 interests.

33 d. Any other aid or service that is used to provide
34 information in a format that is readily understandable and
35 accessible to individuals with cognitive, neurological,
36 developmental, or intellectual disabilities.

37 (b) "Covered entity" means any of the following:

38 1. A licensed health care practitioner as defined in s.
39 456.001.

40 2. A health care facility as defined in s. 408.07.

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41 3. Any other entity responsible for potential recipients
42 of an anatomical gift or organ transplant.

43 (c) "Disability" has the same meaning as "developmental
44 disability" and "intellectual disability" as those terms are
45 defined in s. 393.063.

46 (d) "Organ transplant" means the transplantation or
47 transfusion of a part of a human body into the body of another
48 individual for the purpose of treating or curing a medical
49 condition.

50 (e) "Qualified individual" means an individual who has a
51 disability and meets the clinical eligibility requirements for
52 the receipt of an anatomical gift or an organ transplant,
53 regardless of:

- 54 1. The support networks available to the individual;
55 2. The provision of auxiliary aids and services; or
56 3. Reasonable modifications to the policies, practices or
57 procedures of a covered entity pursuant to subsection (4).

58 (2) A covered entity may not do any of the following
59 solely on the basis of an individual's disability:

60 (a) Consider a qualified individual ineligible to receive
61 an anatomical gift or organ transplant.

62 (b) Deny medical or other services related to an organ
63 transplant, including evaluation, surgery, counseling, and
64 posttransplant treatment and services.

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65 (c) Refuse to refer the individual to an organ procurement
66 organization or a related specialist for the purpose of
67 evaluation or receipt of an organ transplant.

68 (d) Refuse to place a qualified individual on an organ
69 transplant waiting list.

70 (e) Place a qualified individual at a lower priority
71 position on an organ transplant waiting list than the position
72 at which the qualified individual would have been placed if not
73 for the disability.

74 (3) (a) A covered entity may take an individual's
75 disability into account if, following an individualized
76 evaluation of him or her, a physician finds the individual's
77 disability to be medically significant to the provision of the
78 anatomical gift or organ transplant, but only to the extent that
79 the covered entity is making treatment or coverage
80 recommendations or decisions for the individual.

81 (b) If an individual has the necessary support system to
82 assist him or her in complying with posttransplant medical
83 requirements, a covered entity may not consider the individual's
84 inability to independently comply with the posttransplant
85 medical requirements to be medically significant for the
86 purposes of paragraph (a).

87 (4) A covered entity shall make reasonable modifications
88 to policies, practices, or procedures when the modifications are
89 necessary to allow an individual with a disability access to

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90 services, including transplant-related counseling, information,
91 coverage, or treatment, unless the covered entity can
92 demonstrate that making the modifications would fundamentally
93 alter the nature of the services. Such modifications shall
94 include, but not be limited to, communication with the persons
95 responsible for supporting the individual with his or her
96 postsurgical and posttransplant care, including medication. Such
97 modifications shall also consider the support networks available
98 to the individual, including, but not limited to, family,
99 friends, and home and community-based services coverage when
100 determining whether the individual is able to comply with
101 posttransplant medical requirements.

102 (5) A covered entity shall take such steps as may be
103 necessary to ensure that an individual with a disability is not
104 denied services, including transplant-related counseling,
105 information, coverage, or treatment, due to the absence of
106 auxiliary aids and services, unless the covered entity can
107 demonstrate that taking the steps would fundamentally alter the
108 nature of the services being offered or would result in an undue
109 burden on the covered entity.

110 (6) If a covered entity violates this section, the
111 qualified individual who is affected by the violation may bring
112 an action in the appropriate circuit court for injunctive or
113 other equitable relief.

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114 (7) This section may not be construed to require a covered
115 entity to make a referral or recommendation for or perform a
116 medically inappropriate organ transplant.

117 Section 2. Section 627.64197, Florida Statutes, is created
118 to read:

119 627.64197 Coverage for organ transplants.—A health
120 insurance policy issued, delivered, or renewed on or after July
121 1, 2020, in this state by an insurer which provides coverage for
122 organ transplants on an expense-incurred basis may not deny
123 coverage for an organ transplant solely on the basis of an
124 insured's disability. This section may not be construed to
125 require such insurer to provide coverage for an organ transplant
126 that is not medically necessary. For purposes of this section,
127 the term "organ transplant" has the same meaning as in s.
128 765.523.

129 Section 3. Section 627.65736, Florida Statutes, is created
130 to read:

131 627.65736 Coverage for organ transplants.—A group health
132 insurance policy delivered, issued, or renewed on or after July
133 1, 2020, in this state by an insurer or nonprofit health care
134 services plan which provides coverage for organ transplants on
135 an expense-incurred basis may not deny coverage for an organ
136 transplant solely on the basis of an insured's disability. This
137 section may not be construed to require such insurer or
138 nonprofit health care service plan to provide coverage for an

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139 organ transplant that is not medically necessary. For purposes
140 of this section, the term "organ transplant" has the same
141 meaning as in s. 765.523.

142 Section 4. Section 641.31075, Florida Statutes, is created
143 to read:

144 641.31075 Coverage for organ transplants.—A health
145 maintenance contract issued or renewed on or after July 1, 2020,
146 in this state by a health maintenance organization which
147 provides coverage for organ transplants may not deny coverage
148 for an organ transplant solely on the basis of a subscriber's
149 disability. This section may not be construed to require such
150 health maintenance organization to provide coverage for an organ
151 transplant that is not medically necessary. For purposes of this
152 section, the term "organ transplant" has the same meaning as in
153 s. 765.523.

154 Section 5. This act shall take effect July 1, 2020.