

THE FLORIDA SENATE
2020 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/HB 1179 — Nondiscrimination in Organ Transplants

by Health Market Reform Subcommittee and Rep. Fischer and others (CS/CS/SB 1556 by Appropriations Committee; Banking and Insurance Committee; and Senator Bean)

The bill prohibits discrimination by specified “covered entities” from denying, refusing to allocate, or lowering an individual’s priority for organ transplant services, solely on the basis of an individual’s developmental or intellectual disability.

Under the bill, “covered entity” includes health care practitioners, health care facilities, and any other entity responsible for potential recipients of anatomical gifts or organ transplants. A covered entity may not do any of the following based solely on an individual’s disability:

- Consider an individual ineligible to receive an anatomical gift or a transplant.
- Deny medical or other services related to an organ transplant, including evaluation, surgery, counseling, and post-transplant treatment and services.
- Refuse to refer an individual to an organ procurement organization or a related specialist for evaluation or receipt of an organ transplant.
- Refuse to place an individual on an organ transplant waiting list.
- Place an individual at a lower priority position on an organ transplant waiting list because of the disability.

A covered entity may take an individual’s disability into account if, after an evaluation, a physician finds the individual’s disability is medically significant enough to cause impact on the receiving an anatomical gift or organ transplant, but only if the covered entity is making treatment or coverage recommendations. If an individual has the necessary support system to assist him or her in complying with post-transplant medical requirements, a covered entity may not consider the individual’s inability to independently comply with the post-transplant medical requirements to be medically significant.

Unless a covered entity can demonstrate that modifications to its policies, practices, or procedures for selecting candidates would fundamentally alter the nature of its services, a covered entity must make reasonable modifications when the modifications are necessary to allow an individual with a disability access to services.

If a covered entity violates the bill’s provisions, the bill provides that the qualified individual affected by the violation may bring an action for injunctive or other equitable relief.

The bill provides that it may not be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

The bill prohibits health insurers and health maintenance organizations that provide transplant coverage, from denying coverage for an organ transplant based solely on an individual’s disability. The bill provides that this restriction may not be construed to require an insurer or

health maintenance organization to provide coverage for an organ transplant that is not medically necessary.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 38-0; House 111-0