

**RCW 68.70.020 Prohibition of discrimination.** (1) A covered entity may not, solely on the basis of a qualified individual's mental or physical disability:

(a) Deem an individual ineligible to receive an anatomical gift or organ transplant;

(b) Deny medical or related organ transplantation services, including evaluation, surgery, counseling, and postoperative treatment and care;

(c) Refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an organ transplant;

(d) Refuse to place an individual on an organ transplant waiting list, or placement of the individual at a lower-priority position on the list than the position at which he or she would have been placed if not for his or her disability; or

(e) Decline insurance coverage for any procedure associated with the receipt of the anatomical gift, including posttransplantation care.

(2) Notwithstanding subsection (1) of this section, a covered entity may take an individual's disability into account when making treatment and/or coverage recommendations or decisions, solely to the extent that the physical or mental disability has been found by a physician, following an individualized evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

(3) If an individual has the necessary support system to provide reasonable assurance that she or he will comply with posttransplant medical requirements, an individual's inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of subsection (2) of this section.

(4) A covered entity must make reasonable modifications to policies, practices, or procedures, when such modifications are necessary to make services such as transplantation-related counseling, information, coverage, or treatment available to qualified individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(5) A covered entity must take such steps as may be necessary to ensure that no qualified individual with a disability is denied services such as transplantation-related counseling, information, coverage, or treatment because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or would result in an undue burden.

(6) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with disabilities act of 1990 and the Americans with disabilities act amendments act of 2008.

(7) The provisions of this section apply to each part of the organ transplant process. [2019 c 315 § 3.]

**Findings—2019 c 315:** "(1) The legislature finds that a mental or physical disability does not diminish a person's right to health care including organ transplantation.

(2) The legislature finds that the Americans with disabilities act of 1990 prohibits discrimination against persons with

disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services.

(3) The legislature finds that although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in medicare, medicaid, and other federal funding programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.

(4) The legislature finds that Washington residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability." [2019 c 315 § 1.]