363A.50 NONDISCRIMINATION IN ACCESS TO TRANSPLANTS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given unless the context clearly requires otherwise.

(b) "Anatomical gift" has the meaning given in section 525A.02, subdivision 4.

(c) "Auxiliary aids and services" include, but are not limited to:

(1) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments and to non-English-speaking individuals;

(2) qualified readers, taped texts, texts in accessible electronic format, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) the provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, intellectual, or physical disabilities;

(4) the provision of supported decision-making services; and

(5) the acquisition or modification of equipment or devices.

(d) "Covered entity" means:

(1) any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers; or

(2) any entity responsible for matching anatomical gift donors to potential recipients.

(e) "Disability" has the meaning given in section 363A.03, subdivision 12.

(f) "Organ transplant" means the transplantation or infusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition.

(g) "Qualified individual" means an individual who, with or without available support networks, the provision of auxiliary aids and services, or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift.

(h) "Reasonable modifications" include, but are not limited to:

(1) communication with individuals responsible for supporting an individual with postsurgical and post-transplantation care, including medication; and

(2) consideration of support networks available to the individual, including family, friends, and home and community-based services, including home and community-based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with post-transplant medical requirements.

(i) "Supported decision making" has the meaning given in section 524.5-102, subdivision 16a.

Subd. 2. **Prohibition of discrimination.** (a) A covered entity may not, on the basis of a qualified individual's race, ethnicity, mental disability, or physical disability:

(1) deem an individual ineligible to receive an anatomical gift or organ transplant;

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

(3) refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an anatomical gift or organ transplant;

(4) refuse to place an individual on an organ transplant waiting list or place the individual at a lower-priority position on the list than the position at which the individual would have been placed if not for the individual's race, ethnicity, or disability; or

(5) decline insurance coverage for any procedure associated with the receipt of the anatomical gift or organ transplant, including post-transplantation and postinfusion care.

(b) Notwithstanding paragraph (a), 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 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 or organ transplant. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, organ transplants that are not medically appropriate given the individual's overall health condition.

(c) If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, an individual's inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of paragraph (b).

(d) 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.

(e) 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 result in an undue burden. A covered entity is not required to provide supported decision-making services.

(f) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and the Minnesota Human Rights Act.

(g) The provisions of this section apply to each part of the organ transplant process.

Subd. 3. **Remedies.** In addition to all other remedies available under this chapter, any individual who has been subjected to discrimination in violation of this section may initiate a civil action in a court of competent jurisdiction to enjoin violations of this section.

History: *2021 c 30 art 14 s 2; 2022 c 98 art 13 s 11*