

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to health care; prohibiting discrimination in the provision of health care services and insurance for organ transplants and related procedures based on a person's disability; providing definitions; providing for enforcement and authorizing a civil action; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-20-801, 26-20-802 and 35-5-301 through 35-5-303 are created to read:

ARTICLE 8
ANATOMICAL GIFTS AND ORGAN TRANSPLANTATION

26-20-801. Definitions.

(a) As used in this article:

(i) "Covered person" means a policyholder, subscriber, enrollee, member or individual covered by any policy, contract or certificate listed in W.S. 26-20-802(a);

(ii) "Health insurance issuer" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including through a policy, contract or certificate listed in W.S. 26-20-802(a), and shall include a sickness and accident insurance company, a nonprofit corporation, a health maintenance organization, a preferred provider organization, or any similar entity, or

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

any other entity providing a plan of health insurance or health benefits.

(b) The definitions in W.S. 35-5-301 shall apply to this article.

26-20-802. Discrimination prohibited.

(a) No individual or group health insurance policy providing coverage on an expense incurred basis, individual or group service or indemnity type health insurance contract or certificate issued by any health insurance issuer that provides coverage for anatomical gifts, organ transplants or related treatment and services shall:

(i) Deny coverage of an anatomical gift, organ transplant or related treatment or service to a covered person solely on the basis of the person's disability;

(ii) Deny to a covered person eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the policy, contract or certificate, solely for the purpose of avoiding the requirements of this section or W.S. 35-5-301 through 35-5-303;

(iii) Penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide monetary or nonmonetary incentives to an attending provider, to induce the provider to provide care to a covered person in a manner inconsistent with this section or W.S. 35-5-301 through 35-5-303; or

(iv) Reduce or limit coverage benefits to a covered person for the medical services or other services related to organ transplantation performed pursuant to this

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

section and W.S. 35-5-301 through 35-5-303 as determined in consultation with the attending physician and covered person.

(b) In the case of any policy, contract or certificate listed in subsection (a) of this section that is maintained pursuant to one (1) or more collective bargaining agreements between employee representatives and one (1) or more employers, any policy, contract or certificate amendment made pursuant to a collective bargaining agreement relating to the policy and made solely to conform to any requirement under this section shall not be treated as a termination of the collective bargaining agreement.

(c) Nothing in this section shall require a health insurance issuer to provide coverage for a medically inappropriate organ transplant.

CHAPTER 5
ANATOMICAL GIFTS AND ORGAN TRANSPLANTATION

ARTICLE 3
NONDISCRIMINATION IN ACCESS TO ANATOMICAL GIFTS AND ORGAN
TRANSPLANTATION

35-5-301. Definitions.

(a) As used in this article:

(i) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation or transfusion;

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(ii) "Auxiliary aid or service" means an aid or service that is used to provide information to an individual with a cognitive, developmental, intellectual, neurological or physical disability and is available in a format or manner that allows the individual to better understand the information. An auxiliary aid or service includes any of the following:

(A) Qualified interpreters or other effective methods of making aurally delivered materials available to persons with hearing impairments;

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

(C) Supported decision making services, including:

(I) The use of a support individual to communicate information to the individual with a disability, ascertain the wishes of the individual or assist the individual in making decisions;

(II) The disclosure of information to a legal guardian, authorized representative or another individual designated by the individual with a disability for decision making purposes, as long as the disclosure is consistent with state and federal law, including the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., and any regulations promulgated by the United States department of health and human services to implement the act;

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(III) If an individual has a court appointed guardian or other individual responsible for making medical decisions on behalf of the individual, any measures used to ensure that the individual is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests;

(IV) Any other aid or service that is used to provide information in a format that is easily understandable and accessible to individuals with cognitive, neurological, developmental or intellectual disabilities, including assistive communication technology.

(iii) "Covered entity" means:

(A) 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;

(B) Any entity responsible for matching anatomical gift donors to potential recipients.

(iv) "Disability" has the meaning stated in the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008, at 42 U.S.C. § 12102;

(v) "Organ transplant" means the transplantation or transfusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition;

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(vi) "Qualified recipient" means an individual who has a disability and meets the essential eligibility requirements for the receipt of an anatomical gift with or without any of the following:

(A) Individuals or entities available to support and assist the individual with an anatomical gift or transplantation;

(B) Auxiliary aids or services;

(C) Reasonable modifications to the policies, practices or procedures of a covered entity, including modifications to allow for either or both of the following:

(I) Communication with one (1) or more individuals or entities available to support or assist with the recipient's care and medication after surgery or transplantation;

(II) 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, when determining whether the individual is able to comply with post-transplant medical requirements.

35-5-302. Discrimination prohibited.

(a) A covered entity shall not, solely on the basis of an individual's disability:

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(i) Consider the individual ineligible to receive an anatomical gift or organ transplant;

(ii) Deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling or post-operative treatment and services;

(iii) 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;

(iv) Refuse to place a qualified recipient on an organ transplant waiting list;

(v) 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;

(vi) 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) 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.

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(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 entity can demonstrate that making such modifications would fundamentally alter the nature of those 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 the 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) Nothing in this section shall require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(g) A covered entity shall otherwise comply with the requirements of titles II and III of the Americans with Disabilities Act, as amended.

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(h) The provisions of this article shall apply to all stages of the organ transplant process.

35-5-303. Enforcement.

(a) Whenever it appears that a covered entity has violated or is violating any of the provisions of this article, the affected individual may commence a civil action for injunctive and other relief against the covered entity for purposes of enforcing compliance with this article. The action may be brought in the district court for the county where the affected individual resides or resided or was denied the organ transplant or referral.

(b) In an action brought under this article, the court shall give priority on its docket and expedited review, and may grant injunctive or other relief, including:

(i) Requiring auxiliary aids or services to be made available for a qualified recipient;

(ii) Requiring the modification of a policy, practice or procedure of a covered entity; or

(iii) Requiring facilities be made readily accessible to and usable by a qualified recipient.

(c) Nothing in this article is intended to limit or replace available remedies under the Americans With Disabilities Act, as amended, or any other applicable law.

ORIGINAL HOUSE
BILL NO. HB0111

ENROLLED ACT NO. 27, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

Section 2. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk