It is still allowable for these covered entities to take disability into account if, after an individualized evaluation, they find it to be medically significant to that process. But they may only consider disability to the extent that they are making treatment or coverage recommendations or decisions for the patient. The law doesn’t compel covered entities to undertake organ transplant procedures they deem medically inappropriate, but it does make it illegal for them to deny care outright just because the patient has a disability. Put another way, health care providers retain their professional judgment about how best to care for their patients with disabilities, but they are not allowed to deny transplants or related care just because of those disabilities.

If a covered entity violates these rules, the law empowers patients with disabilities to sue in the appropriate circuit court to stop the violation or for money damages. This right is not only a way to hold covered entities accountable, but it also provides access to a legal mechanism for establishing the facts. During this extremely trying and confusing time for a family – and for covered entities – getting to the bottom of what did – or didn’t – happen may otherwise prove very difficult.
ORGAN TRANSPLANT DISCRIMINATION PREVENTION IN FLORIDA

FACT SHEET

ADDITIONAL PROVISIONS

1. If an individual with a disability has the support system necessary to help care for them after a transplant, such as a parent or other caregiver, covered entities are not allowed to consider an inability to care for oneself independently as "medically significant."

2. Covered entities must make reasonable modifications to policies, practices, or procedures to ensure individuals with disabilities have access to transplant-related services unless doing so would "fundamentally alter the nature of the services."

3. The law sets up non-discrimination standards for insurers.

IMPORTANT CONSIDERATIONS

The law took effect in summer 2020, so there has not been much time for these covered entities to learn about it, share it with staff, and otherwise implement it. Moreover, since the bill passed in the middle of the COVID-19 pandemic, which health care providers continue to grapple with, it is even more likely that they have not been adequately educated about the law.

WHAT YOU CAN DO TO HELP

✓ Share this resource with the people in your networks. Everyone involved in the organ transplant system in Florida – including patients with disabilities – should learn about this law.

✓ Amplify NDSS’ advocacy posts regarding organ transplant discrimination prevention, especially about the Charlotte Woodward Organ Transplant Discrimination Prevention Act, which is making its way through Congress.

TIPS FOR COMMUNICATING ABOUT THE LAW

- Stick to the facts and avoid placing blame
- Avoid partisanship
- Minimize debate on social media
- Stay future-focused

With your help, we can educate more people about this important disability rights protection.