

HB 2839 A -A2 STAFF MEASURE SUMMARY

Senate Committee On Health Care

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Meeting Dates: 5/18, 5/25

WHAT THE MEASURE DOES:

Prohibits covered entities including health care service organizations, licensed health professionals and health insurers from determining an individual ineligible to receive an organ transplant due to a disability, if the individual meets the eligibility requirements for a transplant. Requires entities to ensure qualified individuals with a disability are not denied medical services or other services related to a transplant. Specifies process for judicial review of claim brought under Act. Declares emergency, effective on passage.

FISCAL: Minimal fiscal impact.

REVENUE: No revenue impact.

ISSUES DISCUSSED:

- Individuals with mental or physical disabilities denied organ transplants on basis of their disability
- States that have enacted legislation prohibiting discrimination due to a disability
- Expedited judicial review process to quickly resolve claims of discrimination

EFFECT OF AMENDMENT:

-A2 Clarifies that individuals receiving care at OHSU can access expedited judicial review procedure and do not have to file a Tort Claims notice. Clarifies measure does not create a new legal mechanism to seek monetary damages against OHSU or other public entities.

BACKGROUND:

It has been reported that individuals with mental or physical disabilities are denied access to life-saving organ transplants due to their disability. A 2008 survey conducted among 88 transplant centers in the United States found that pediatric transplant centers consider neurodevelopment status in determining whether an individual was eligible for a transplant. Federal law including the Americans with Disabilities Act (ADA) does not expressly prohibit health care providers or medical centers from considering a disability in selecting individuals for a transplant.

In recent years, California, Massachusetts, Maryland and New Jersey have enacted legislation prohibiting discrimination in organ transplants against people with disabilities. In 2016, members of Congress sent a letter to the Department of Health and Human Services (DHS) requesting the agency to issue guidance on organ transplant discrimination with regards to individuals with disabilities, specifically stating that the organ transplant discrimination violates the ADA.

House Bill 2839-A prohibits discrimination against individuals with a disability in the provision of organ transplants in Oregon.