

Requested by HOUSE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2839**

1 Delete lines 4 through 29 of the printed bill and insert:

2 **“SECTION 1. (1) As used in this section:**

3 **“(a) ‘Auxiliary aids and services’ means:**

4 **“(A) Qualified interpreters or other effective methods of making**
5 **aurally delivered material available to individuals with hearing**
6 **impairment;**

7 **“(B) Qualified readers, audio recordings of texts or other effective**
8 **methods of making visually delivered material available to individuals**
9 **with visual impairment;**

10 **“(C) Acquisition or modification of equipment or devices; or**

11 **“(D) Other similar services or actions.**

12 **“(b) ‘Covered entity’ means:**

13 **“(A) Any entity licensed under the laws of this state for the purpose**
14 **of providing health care services;**

15 **“(B) Any practitioner licensed under the laws of this state for the**
16 **purpose of practicing a health care profession; or**

17 **“(C) An insurer of health care services.**

18 **“(c) ‘Disability’ has the meaning described in ORS 659A.104.**

19 **“(d) ‘Organ transplant’ means the transplantation or transfusion**
20 **of a part of a human body into another human body for the purpose**
21 **of treating or curing a medical condition.**

1 “(e) ‘Qualified individual’ means an individual who, with or without
2 the availability of support networks, auxiliary aids and services or
3 reasonable modifications to policies or practices, meets the eligibility
4 requirements for the receipt of an organ transplant.

5 “(f) ‘Reasonable modifications to policies or practices’ includes:

6 “(A) Communication with individuals responsible for supporting an
7 individual through postsurgical, posttransplantation and
8 posttransfusion care, including the administration of medication; and

9 “(B) Consideration of support networks available to an individual,
10 including family, friends and home- and community-based services
11 funded through Medicaid, Medicare, a health benefit plan as defined
12 in ORS 743B.005 or any other source of funding available to the indi-
13 vidual, in determining whether the individual is able to comply with
14 posttransplantation and posttransfusion medical requirements.

15 “(g) ‘Transplant hospital’ has the meaning given that term in ORS
16 97.953.

17 “(2) A covered entity may not, solely on the basis of a qualified
18 individual’s disability:

19 “(a) Consider the individual ineligible to receive an organ trans-
20 plant.

21 “(b) Deny the individual medical services or other services related
22 to organ transplantation, including diagnostic services, surgery,
23 postoperative treatment and counseling.

24 “(c) Refuse to refer the individual to a transplant hospital or an
25 organ transplant specialist for the purpose of being evaluated for or
26 receiving an organ transplant.

27 “(d) Refuse to place the individual on an organ transplant waiting
28 list.

29 “(e) Place the individual on an organ transplant waiting list at a
30 lower priority position than the position at which the individual would

1 **have been placed if the individual did not have a disability.**

2 **“(f) Refuse the individual insurance coverage for any procedure as-**
3 **sociated with being evaluated for or receiving an organ transplant,**
4 **including posttransplantation and posttransfusion care.**

5 **“(3) Notwithstanding subsection (2) of this section, a covered entity**
6 **may consider a qualified individual’s disability when making treatment**
7 **or insurance coverage decisions or recommendations related to organ**
8 **transplantation, to the extent that the disability has been found by a**
9 **physician licensed under ORS chapter 677, following an individualized**
10 **evaluation of the individual, to be medically significant to the receipt**
11 **of the organ transplant.**

12 **“(4) If a covered entity makes an objectively reasonable determi-**
13 **nation that a qualified individual has the necessary support networks,**
14 **including family, friends and home- and community-based services**
15 **funded through Medicaid, Medicare, a health benefit plan as defined**
16 **in ORS 743B.005 or any other source of funding available to the indi-**
17 **vidual, to assist the individual in complying with posttransplantation**
18 **and posttransfusion medical requirements, the covered entity may not**
19 **consider the individual’s inability to independently comply with those**
20 **orders to be medically significant for purposes of subsection (3) of this**
21 **section.**

22 **“(5) A covered entity must modify the covered entity’s policies,**
23 **practices or procedures when modification is necessary to make med-**
24 **ical services or other services related to organ transplantation, in-**
25 **cluding diagnostic services, surgery, postoperative treatment and**
26 **counseling, available to a qualified individual who has a disability un-**
27 **less the covered entity demonstrates that making the modification**
28 **would fundamentally alter the nature of the medical services or other**
29 **services related to organ transplantation.**

30 **“(6) A covered entity must take steps necessary to ensure that a**

1 **qualified individual who has a disability is not denied medical services**
2 **or other services related to organ transplantation, including diagnostic**
3 **services, surgery, postoperative treatment and counseling, unless the**
4 **covered entity demonstrates that taking the steps would fundamen-**
5 **tally alter the nature of the medical services or other services related**
6 **to organ transplantation or would result in an undue burden for the**
7 **covered entity.**

8 **“(7) Judicial review of a claim brought under this section may be**
9 **sought from the circuit court for the county in which the potential**
10 **recipient of the organ transplant resides or resided or was denied the**
11 **organ transplant. The circuit court shall give priority on its docket**
12 **and expedited review to a claim brought under this section.**

13 **“(8) In an action brought under this section, the court may grant**
14 **equitable relief, including:**

15 **“(a) Requiring auxiliary aids and services to be made available for**
16 **a qualified individual with a disability;**

17 **“(b) Requiring the modification of a policy, practice or procedure**
18 **of a covered entity; or**

19 **“(c) Requiring facilities be made readily accessible to and usable by**
20 **a qualified individual with a disability.**

21 **“SECTION 2. This 2017 Act being necessary for the immediate**
22 **preservation of the public peace, health and safety, an emergency is**
23 **declared to exist, and this 2017 Act takes effect on its passage.”.**

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