



Ohio Revised Code

Section 2108.36 Definitions; prohibited actions based on physical disability by covered entity.

Effective: September 28, 2018

Legislation: House Bill 332 - 132nd General Assembly

(A) As used in this section and sections 2108.37 and 2108.38 of the Revised Code:

(1) "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 easily understand the information. An auxiliary aid or service may include the following:

(a) A qualified interpreter or other effective means of making aurally delivered materials available to an individual with a hearing impairment;

(b) A qualified reader, taped text, text in an accessible electronic format, or other effective means of making visually delivered materials available to an individual with a visual impairment;

(c) A supported decision-making service, including the following:

(i) The use of an 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 such purpose, 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.

(2) "Covered entity" means any of the following:

(a) A licensed health professional as defined in section 3721.21 of the Revised Code;



- (b) A hospital registered under section 3701.07 of the Revised Code or as defined in section 5122.01 of the Revised Code;
 - (c) An ambulatory surgical facility as defined in section 3702.30 of the Revised Code;
 - (d) A hospice care program as defined in section 3712.01 of the Revised Code;
 - (e) A public hospital as defined in section 5122.01 of the Revised Code;
 - (f) A home, including a nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code or a veterans' home operated under Chapter 5907. of the Revised Code;
 - (g) A residential facility as defined in section 5119.34 or section 5123.19 of the Revised Code;
 - (h) An intermediate care facility for individuals with intellectual disabilities as described in section 5124.01 of the Revised Code;
 - (i) A long-term care facility as defined in section 3721.21 of the Revised Code;
 - (j) A correctional medical center established by the department of rehabilitation and corrections;
 - (k) Any entity responsible for matching anatomical gift donors to potential recipients.
- (3) "Disability" has the same meaning as in the "Americans with Disabilities Act of 1990," 42 U.S.C. 12102.
- (4) "Qualified recipient" means a recipient who has a disability and meets the eligibility requirements for receipt of an anatomical gift with or without any of the following:
- (a) Individuals or entities available to support and assist the recipient 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 or more individuals or entities available to support or assist with the recipient's care after surgery or transplantation;

(ii) Consideration of the availability of such individuals or entities when determining whether the recipient is able to comply with medical requirements following transplantation.

(B) A covered entity shall not do any of the following solely on the basis of an individual's disability:

(1) Consider a qualified recipient ineligible for transplantation or to receive an anatomical gift;

(2) Deny medical or other services related to transplantation, including evaluation, surgery, and counseling and treatment following transplantation;

(3) Refuse to refer an individual to a transplant center or specialist;

(4) Refuse to place a qualified recipient on an organ or tissue waiting list;

(5) Place a qualified recipient at a position on an organ or tissue waiting list that is lower than the position at which the recipient would have been placed if not for the recipient's disability.

(C)(1) Subject to division (C)(2) of this section, when making treatment recommendations or decisions related to an anatomical gift or transplantation, a covered entity may consider an individual's disability, if the disability has been determined by a physician, following an examination of the individual, to be medically significant to the provision of an anatomical gift or transplantation.

(2) A covered entity shall not consider the inability to comply with medical requirements following transplantation to be medically significant if a qualified recipient has individuals or entities available



to assist in complying with the requirements.

(D) A covered entity shall make reasonable modifications to its policies, practices, or procedures to allow individuals with disabilities access to transplantation-related treatment and services, except when the entity can demonstrate that the modifications would fundamentally alter the nature of the treatment and services.