

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2200.28 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as "Everett's Law".

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2200.29 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 As used in this act:

9 1. "Anatomical gift" means a donation of all or part of a human
10 body to take effect after the donor's death for the purpose of
11 transplantation or transfusion;

12 2. "Auxiliary aids or services" means an aid or service that is
13 used to provide information to an individual with a cognitive,
14 developmental, intellectual, neurological or physical disability and
15 is available in a format or manner that allows the individual to
16 better understand the information. An auxiliary aid or service may
17 include:

18 a. qualified interpreters or other effective methods of
19 making aurally delivered materials available to
20 persons with hearing impairments,

21 b. qualified readers, taped texts, texts in accessible
22 electronic format or other effective methods of making
23 visually delivered materials available to persons with
24 visual impairments,

1 c. supported decision-making services, including:

2 (1) the use of a support individual to communicate
3 information to the individual with a disability,
4 ascertain the wishes of the individual, or assist
5 the individual in making decisions,

6 (2) the disclosure of information to a legal
7 guardian, authorized representative or another
8 individual designated by the individual with a
9 disability for such purpose, as long as the
10 disclosure is consistent with state and federal
11 law including the Health Insurance Portability
12 and Accountability Act of 1996, 42 U.S.C. 1320d
13 et seq. and any regulations promulgated by the
14 United States Department of Health and Human
15 Services to implement the act,

16 (3) if an individual has a court-appointed guardian
17 or other individual responsible for making
18 medical decisions on behalf of the individual,
19 any measures used to ensure that the individual
20 is included in decisions involving the
21 individual's health care and that medical
22 decisions are in accordance with the individual's
23 own expressed interests, or
24

1 (4) any other aid or service that is used to provide
2 information in a format that is easily
3 understandable and accessible to individuals with
4 cognitive, neurological, developmental or
5 intellectual disabilities, including assistive
6 communication technology;

7 3. "Covered entity" means:

- 8 a. any licensed provider of health care services
9 including licensed health care practitioners,
10 hospitals, nursing facilities, laboratories,
11 intermediate care facilities, psychiatric residential
12 treatment facilities, institutions for individuals
13 with intellectual or developmental disabilities and
14 prison health centers, or
15 b. any entity responsible for matching anatomical gift
16 donors to potential recipients;

17 4. "Disability" has the meaning stated in the Americans with
18 Disabilities Act of 1990, as amended by the ADA Amendments Act of
19 2008, 42 U.S.C. § 12102;

20 5. "Organ transplant" means the transplantation or transfusion
21 of a part of a human body into the body of another for the purpose
22 of treating or curing a medical condition; and
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1 6. "Qualified recipient" means an individual who has a
2 disability and meets the essential eligibility requirements for the
3 receipt of an anatomical gift with or without any of the following:

4 a. individuals or entities available to support and
5 assist the individual with an anatomical gift or
6 transplantation,

7 b. auxiliary aids or services, or

8 c. reasonable modifications to the policies, practices or
9 procedures of a covered entity including modifications
10 to allow for either or both of the following:

11 (1) communication with one or more individuals or
12 entities available to support or assist with the
13 recipient's care and medication after surgery or
14 transplantation, or

15 (2) consideration of support networks available to
16 the individual including family, friends and home
17 and community-based services including home and
18 community-based services funded through Medicaid,
19 Medicare, another health plan in which the
20 individual is enrolled or any program or source
21 of funding available to the individual, when
22 determining whether the individual is able to
23 comply with post-transplant medical requirements.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2200.30 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The provisions of this section shall apply to all stages of
5 the organ transplant process.

6 B. A covered entity shall not, solely on the basis of an
7 individual's disability:

8 1. Consider the individual ineligible to receive an anatomical
9 gift or organ transplant;

10 2. Deny medical services or other services related to organ
11 transplantation including diagnostic services, evaluation, surgery,
12 counseling, post-operative treatment and services;

13 3. Refuse to refer the individual to a transplant center or
14 other related specialist for the purpose of being evaluated for or
15 receiving an organ transplant;

16 4. Refuse to place a qualified recipient on an organ transplant
17 waiting list;

18 5. Place a qualified recipient on an organ transplant waiting
19 list at a lower priority position than the position at which the
20 individual would have been placed if the individual did not have a
21 disability; or

22 6. Refuse to accept health insurance coverage for any procedure
23 associated with being evaluated for or receiving an anatomical gift
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1 or organ transplant including post-transplantation and post-
2 transfusion care.

3 C. Notwithstanding subsection B of this section, a covered
4 entity may take an individual's disability into account when making
5 treatment or coverage recommendations or decisions, solely to the
6 extent that the disability has been found by a physician or surgeon,
7 following an individualized evaluation of the individual, to be
8 medically significant to the receipt of the anatomical gift.

9 D. If an individual has the necessary support system to assist
10 the individual in complying with post-transplant medical
11 requirements, a covered entity shall not consider the individual's
12 inability to independently comply with post-transplant medical
13 requirements to be medically significant for the purposes of
14 subsection C of this section.

15 E. A covered entity shall make reasonable modifications to its
16 policies, practices or procedures to allow individuals with
17 disabilities access to transplantation-related services including
18 diagnostic services, surgery, coverage, post-operative treatment and
19 counseling, unless the entity can demonstrate that making such
20 modifications would fundamentally alter the nature of such services.

21 F. A covered entity shall take steps necessary to ensure that
22 an individual with a disability is not denied medical services or
23 other services related to organ transplantation including diagnostic
24 services, surgery, post-operative treatment or counseling, due to

1 the absence of auxiliary aids or services, unless the covered entity
2 demonstrates that taking the steps would fundamentally alter the
3 nature of the medical services or other services related to organ
4 transplantation or would result in an undue burden for the covered
5 entity.

6 G. Nothing in this section shall be construed to require a
7 covered entity to make a referral or recommendation for or perform a
8 medically inappropriate organ transplant.

9 H. A covered entity shall otherwise comply with the
10 requirements of Titles II and III of the Americans with Disabilities
11 Act of 1990, as amended by the ADA Amendments Act of 2008.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2200.31 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. Whenever it appears that a covered entity has violated or is
16 in violation of any of the provisions of this act, the affected
17 individual may commence a civil action for injunctive and other
18 equitable relief against the covered entity for purposes of
19 enforcing compliance with this act. The action may be brought in
20 the district court for the county where the affected individual
21 resides or resided or was denied the organ transplant or referral.

22 B. In an action brought under this act, the court shall give
23 priority on its docket and expedited review, and may grant
24 injunctive or other equitable relief including:

1 1. Requiring auxiliary aids or services to be made available
2 for a qualified recipient;

3 2. Requiring the modification of a policy, practice or
4 procedure of a covered entity; or

5 3. Requiring facilities be made readily accessible to and
6 usable by a qualified recipient.

7 C. Nothing in this act is intended to limit or replace
8 available remedies under the Americans with Disabilities Act or any
9 other applicable law.

10 D. This act does not create a right to compensatory or punitive
11 damages against a covered entity.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2200.32 of Title 63, unless
14 there is created a duplication in numbering, reads as follows:

15 A. For purposes of this section:

16 1. "Covered person" means a policyholder, subscriber, enrollee,
17 member or individual covered by a health benefit plan;

18 2. "Health benefit plan" means a policy, contract, certificate,
19 or agreement entered into, offered or issued by a health carrier to
20 provide, deliver, arrange for, pay for or reimburse any of the costs
21 of health care services. Health benefit plan shall not include a
22 plan providing coverage for excepted benefits and short term
23 policies that have a term of less than twelve (12) months; and
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1 3. "Health carrier" means an entity subject to the insurance
2 laws and regulations of this state, or subject to the jurisdiction
3 of the Insurance Commissioner, that contracts or offers to contract
4 to provide, deliver, arrange for, pay for or reimburse any of the
5 costs of health care services including through a health benefit
6 plan as defined in this section, and shall include a sickness and
7 accident insurance company, a health maintenance organization, a
8 preferred provider organization or any similar entity, or any other
9 entity providing a plan of health insurance or health benefits.

10 B. A health carrier that provides coverage for anatomical
11 gifts, organ transplants or related treatment and services shall
12 not:

13 1. Deny coverage to a covered person solely on the basis of the
14 person's disability;

15 2. Deny to a patient eligibility, or continued eligibility, to
16 enroll or to renew coverage under the terms of the health benefit
17 plan, solely for the purpose of avoiding the requirements of this
18 section;

19 3. Penalize or otherwise reduce or limit the reimbursement of
20 an attending provider, or provide monetary or nonmonetary incentives
21 to an attending provider, to induce such provider to provide care to
22 an insured or enrollee in a manner inconsistent with this section;

23 or

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1 4. Reduce or limit coverage benefits to a patient for the
2 medical services or other services related to organ transplantation
3 performed pursuant to this section as determined in consultation
4 with the attending physician and patient.

5 C. In the case of a health benefit plan maintained pursuant to
6 one or more collective bargaining agreements between employee
7 representatives and one or more employers, any plan amendment made
8 pursuant to a collective bargaining agreement relating to the plan
9 which amends the plan solely to conform to any requirement imposed
10 pursuant to this section shall not be treated as a termination of
11 the collective bargaining agreement.

12 D. Nothing in this section shall be construed to require a
13 health carrier to provide coverage for a medically inappropriate
14 organ transplant.

15 E. The Insurance Commissioner shall promulgate rules to
16 implement the provisions of this section.

17 SECTION 6. This act shall become effective November 1, 2021.

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19 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/01/2021 - DO
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