

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Anatomical Gift Act is amended by  
5 changing Section 5-15 as follows:

6 (755 ILCS 50/5-15) (was 755 ILCS 50/4.5)

7 Sec. 5-15. Disability of recipient.

8 (a) A hospital, physician and surgeon, procurement  
9 organization, or other person shall not, solely on the basis  
10 of an individual's mental or physical disability:

11 (1) deem an individual ineligible to receive an  
12 anatomical gift or organ transplant;

13 (2) deny medical and other services related to organ  
14 transplantation, including evaluation, surgery,  
15 counseling, postoperative treatment, and services;

16 (3) refuse to refer the individual to a transplant  
17 center or other related specialist for the purpose of  
18 evaluation for or receipt of an organ transplant;

19 (4) refuse to place an individual on an organ  
20 transplant waiting list or place an individual at a lower  
21 priority position on the waiting list than the position at  
22 which the individual would have been placed if not for the  
23 individual's disability;

1           (5) decline insurance coverage for any procedure  
2           associated with the receipt of the anatomical gift,  
3           including posttransplantation care; or

4           (6) if an individual has the necessary support system  
5           to assist the individual in complying with posttransplant  
6           medical requirements, consider the individual's inability  
7           to independently comply with posttransplant medical  
8           requirements to be medically significant for the purposes  
9           of subsection (a-5).

10          A covered entity shall comply with the requirements of the  
11          Americans with Disabilities Act of 1990 and its implementing  
12          regulations in making reasonable modifications to its policies  
13          or procedures in response to a request from an individual with  
14          disabilities regarding access to transplantation-related  
15          services, including diagnostic services, surgery, coverage,  
16          postoperative treatment, and counseling.

17          (a-5) Notwithstanding subsection (a), a hospital,  
18          physician and surgeon, procurement organization, or other  
19          person may take an individual's disability into account when  
20          making treatment or coverage recommendations or decisions  
21          solely to the extent that the physical or mental disability  
22          has been found by a physician or surgeon, following an  
23          individualized evaluation of the potential recipient, to be  
24          medically significant to the provision of the anatomical gift.  
25          ~~No hospital, physician and surgeon, procurement organization,~~  
26          ~~or other person shall determine the ultimate recipient of an~~

1 ~~anatomical gift based upon a potential recipient's physical or~~  
2 ~~mental disability, except to the extent that the physical or~~  
3 ~~mental disability has been found by a physician and surgeon,~~  
4 ~~following a case-by-case evaluation of the potential~~  
5 ~~recipient, to be medically significant to the provision of the~~  
6 ~~anatomical gift.~~

7 (b) Subsection (a) shall apply to each part of the organ  
8 transplant process.

9 (c) The court shall accord priority on its calendar and  
10 handle expeditiously any action brought to seek any remedy  
11 authorized by law for purposes of enforcing compliance with  
12 this Section.

13 (d) This Section shall not be deemed to require referrals  
14 or recommendations for or the performance of medically  
15 inappropriate organ transplants.

16 (e) As used in this Section "disability" has the same  
17 meaning as in the federal Americans with Disabilities Act of  
18 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be  
19 amended from time to time.

20 (f) As used in this Section, "covered entity" has the  
21 meaning ascribed to it under HIPAA, as specified in 45 CFR  
22 160.103.

23 (Source: P.A. 98-172, eff. 1-1-14.)