

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.)