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House of Representatives, March 14, 2025

An Act to Prohibit Discrimination in Access to Anatomical Donations and Organ Transplants

Received by the Clerk of the House on March 12, 2025. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DILL of Old Town.
Cosponsored by Representatives: BRIDGEO of Augusta, GRAHAM of North Yarmouth,
HEPLER of Woolwich, LAJOIE of Lewiston.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA c. 424** is enacted to read:

3 **CHAPTER 424**

4 **NONDISCRIMINATION IN ACCESS TO ANATOMICAL GIFTS AND ORGAN**
5 **TRANSPLANTATION**

6 **§2150-L. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Anatomical gift.** "Anatomical gift" means the donation of part of a human body
10 for the purpose of transplantation to another person.

11 **2. Auxiliary aid or service.** "Auxiliary aid or service" means an aid or service that is
12 used to provide information to an individual with a cognitive, developmental, intellectual,
13 neurological or physical disability and is available in a format or manner that allows the
14 individual to better understand the information.

15 **3. Disability.** "Disability" has the same meaning as "physical or mental disability" as
16 defined in Title 5, section 4553-A.

17 **4. Organ transplant.** "Organ transplant" or "organ transplantation" means the
18 transplantation or transfusion of an anatomical gift into the body of another person for the
19 purpose of treating or curing a medical condition.

20 **5. Qualified recipient.** "Qualified recipient" means an individual who has a disability
21 and meets the essential eligibility requirements for the recipient of an anatomical gift or
22 organ transplantation with or without the presence of any of the following:

23 A. Individuals or entities available to support and assist the individual with an
24 anatomical gift or organ transplantation;

25 B. Auxiliary aids or services; and

26 C. Reasonable modifications to the policies, practices or procedures of a health care
27 facility or provider, including modifications to allow for:

28 (1) Communication with one or more individuals or entities available to support or
29 assist with the recipient's care and medication after surgery or organ
30 transplantation; or

31 (2) Consideration of support networks available to the individual, including family
32 members, friends, home and community-based services or any program or source
33 of funding available to the individual when determining whether the individual is
34 able to comply with post-transplant medical requirements.

35 **§2150-M. Prohibition on discrimination**

36 **1. Prohibition on discrimination for organ transplants.** A health care facility as
37 defined in section 2053, subsection 3-A or provider may not, solely on the basis of an
38 individual's disability:

- 1 A. Consider the individual ineligible to receive an anatomical gift or organ transplant;
- 2 B. Deny medical services or other services related to organ transplantation, including
- 3 diagnostic services, evaluation, surgery, counseling and postoperative treatment and
- 4 services;
- 5 C. Refuse to refer the individual to a transplant hospital or other related specialist for
- 6 the purpose of being evaluated for or receiving an organ transplant;
- 7 D. Refuse to place a qualified recipient on an organ transplant waiting list; or
- 8 E. Place a qualified recipient on an organ transplant waiting list at a lower-priority
- 9 position than the position at which the individual would have been placed if the
- 10 individual did not have a disability.

11 **2. Exceptions.** Notwithstanding subsection 1, a health care facility or provider may

12 take an individual's disability into account when making treatment or coverage

13 recommendations or decisions, solely to the extent that the disability has been found by a

14 provider, following an individualized evaluation of the individual, to be medically

15 significant to the provision of the anatomical gift or organ transplant.

16 **3. Third-party supports.** If an individual has the necessary support system to assist

17 the individual in complying with post-transplant medical requirements, a health care

18 facility or provider may not consider the individual's inability to independently comply

19 with post-transplant medical requirements to be medically significant for the purposes of

20 subsection 2.

21 **4. Required accommodations.** Health care facilities and providers shall:

22 A. Make reasonable modifications to policies, practices and procedures to allow

23 individuals with disabilities access to transplantation-related services, including

24 diagnostic services, surgery, coverage, postoperative treatment or counseling, unless

25 the health care facility or provider demonstrates that making such modifications would

26 fundamentally alter the nature of the services provided; and

27 B. Take reasonable and necessary steps to ensure that an individual with a disability is

28 not denied medical services or other services related to organ transplantation, including

29 diagnostic services, surgery, postoperative treatment or counseling due to the absence

30 of auxiliary aids or services, unless the health care facility or provider demonstrated

31 that taking such steps would fundamentally alter the nature of the medical services or

32 other services related to organ transplantation or would result in an undue burden on

33 the health care facility or provider.

34 **5. Referral or recommendation not required.** A health care facility or provider is

35 not required to make a referral or recommendation for or to perform a medically

36 inappropriate organ transplant.

37 **6. Injunctive or equitable relief.** Whenever it appears that a health care facility or

38 provider is violating any of the provisions of this section, the affected individual may

39 commence a civil action in Superior Court for injunctive or equitable relief against the

40 health care facility or provider for purposes of enforcing compliance. The court may grant

41 injunctive or other equitable relief, including:

- 42 A. Requiring auxiliary aids or services to be made available for a qualified recipient;

1 B. Requiring the modification of a policy, practice or procedure of a health care facility
2 or provider; and

3 C. Requiring health care facilities be made readily accessible to and usable by a
4 qualified recipient.

5 This subsection is not intended to limit or replace available remedies under the federal
6 Americans with Disabilities Act of 1990, 42 United States Code, Section 12101 et seq., as
7 amended or any other applicable federal law.

8 This subsection does not create a right to compensatory or punitive damages against a
9 health care facility or provider.

10 **Sec. 2. 24-A MRSA §4320-L, sub-§4** is enacted to read:

11 **4. Organ transplants.** A carrier that offers, issues or renews a health benefit plan that
12 provides coverage for anatomical gifts as defined in Title 22, section 2150-L, subsection 1,
13 organ transplants as defined in Title 22, section 2150-L, subsection 4 or related treatments
14 or services may not, solely on the basis of a covered individual's disability:

15 A. Deny coverage to a covered individual for an organ transplant or related treatment
16 or services;

17 B. Decline or limit coverage of a covered individual solely for the purpose of avoiding
18 the requirements of this subsection; or

19 C. Penalize a covered individual or reduce or limit coverage for a covered individual
20 for health care services related to organ transplantation as determined in consultation
21 with the provider and the covered individual or the covered individual's representative.

22 This subsection does not require a carrier to provide coverage for the donation of an
23 anatomical gift, an organ transplant or related treatment or services.

24 **SUMMARY**

25 This bill prohibits a health care facility or provider from denying medical services or
26 other services related to organ transplantation to an individual based solely on the
27 individual's disability. It requires health care facilities and providers to make reasonable
28 modifications to policies, practices and procedures to allow individuals with disabilities
29 access to transplantation-related services. It provides that, whenever it appears that a health
30 care facility or provider is violating the antidiscrimination provision of the bill, the affected
31 individual may commence a civil action in Superior Court for injunctive or equitable relief
32 against the health care facility or provider for purposes of enforcing compliance. It prohibits
33 a health insurance carrier that offers, issues or renews a health benefit plan that provides
34 coverage for anatomical gifts, organ transplants or related treatments or services from
35 denying coverage for these services solely on the basis of a covered individual's disability.