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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3972

03/03/2022 Authored by Richardson; Xiong, J.; Noor; Hassan; Becker-Finn and others
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law
03/14/2022 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to human rights; adding race and ethnicity to nondiscrimination in access
1.3 to transplants; amending Minnesota Statutes 2021 Supplement, section 363A.50.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2021 Supplement, section 363A.50, is amended to read:

1.6 363A.50 NONDISCRIMINATION IN ACCESS TO TRANSPLANTS.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given unless the context clearly requires otherwise.

1.9 (b) "Anatomical gift" has the meaning given in section 525A.02, subdivision 4.

1.10 (c) "Auxiliary aids and services" include, but are not limited to:

1.11 (1) qualified interpreters or other effective methods of making aurally delivered materials
1.12 available to individuals with hearing impairments and to non-English-speaking individuals;

1.13 (2) qualified readers, taped texts, texts in accessible electronic format, or other effective
1.14 methods of making visually delivered materials available to individuals with visual
1.15 impairments;

1.16 (3) the provision of information in a format that is accessible for individuals with
1.17 cognitive, neurological, developmental, intellectual, or physical disabilities;

1.18 (4) the provision of supported decision-making services; and

1.19 (5) the acquisition or modification of equipment or devices.

1.20 (d) "Covered entity" means:

2.1 (1) any licensed provider of health care services, including licensed health care
2.2 practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric
2.3 residential treatment facilities, institutions for individuals with intellectual or developmental
2.4 disabilities, and prison health centers; or

2.5 (2) any entity responsible for matching anatomical gift donors to potential recipients.

2.6 (e) "Disability" has the meaning given in section 363A.03, subdivision 12.

2.7 (f) "Organ transplant" means the transplantation or infusion of a part of a human body
2.8 into the body of another for the purpose of treating or curing a medical condition.

2.9 (g) "Qualified individual" means an individual who, with or without available support
2.10 networks, the provision of auxiliary aids and services, or reasonable modifications to policies
2.11 or practices, meets the essential eligibility requirements for the receipt of an anatomical
2.12 gift.

2.13 (h) "Reasonable modifications" include, but are not limited to:

2.14 (1) communication with individuals responsible for supporting an individual with
2.15 postsurgical and post-transplantation care, including medication; and

2.16 (2) consideration of support networks available to the individual, including family,
2.17 friends, and home and community-based services, including home and community-based
2.18 services funded through Medicaid, Medicare, another health plan in which the individual
2.19 is enrolled, or any program or source of funding available to the individual, in determining
2.20 whether the individual is able to comply with post-transplant medical requirements.

2.21 (i) "Supported decision making" has the meaning given in section 524.5-102, subdivision
2.22 16a.

2.23 Subd. 2. **Prohibition of discrimination.** (a) A covered entity may not, on the basis of
2.24 a qualified individual's race, ethnicity, mental disability, or physical disability:

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

2.26 (2) deny medical or related organ transplantation services, including evaluation, surgery,
2.27 counseling, and postoperative treatment and care;

2.28 (3) refuse to refer the individual to a transplant center or other related specialist for the
2.29 purpose of evaluation or receipt of an anatomical gift or organ transplant;

2.30 (4) refuse to place an individual on an organ transplant waiting list or place the individual
2.31 at a lower-priority position on the list than the position at which the individual would have
2.32 been placed if not for the individual's race, ethnicity, or disability; or

3.1 (5) decline insurance coverage for any procedure associated with the receipt of the
3.2 anatomical gift or organ transplant, including post-transplantation and postinfusion care.

3.3 (b) Notwithstanding paragraph (a), a covered entity may take an individual's disability
3.4 into account when making treatment or coverage recommendations or decisions, solely to
3.5 the extent that the physical or mental disability has been found by a physician, following
3.6 an individualized evaluation of the potential recipient to be medically significant to the
3.7 provision of the anatomical gift or organ transplant. The provisions of this section may not
3.8 be deemed to require referrals or recommendations for, or the performance of, organ
3.9 transplants that are not medically appropriate given the individual's overall health condition.

3.10 (c) If an individual has the necessary support system to assist the individual in complying
3.11 with post-transplant medical requirements, an individual's inability to independently comply
3.12 with those requirements may not be deemed to be medically significant for the purposes of
3.13 paragraph (b).

3.14 (d) A covered entity must make reasonable modifications to policies, practices, or
3.15 procedures, when such modifications are necessary to make services such as
3.16 transplantation-related counseling, information, coverage, or treatment available to qualified
3.17 individuals with disabilities, unless the entity can demonstrate that making such modifications
3.18 would fundamentally alter the nature of such services.

3.19 (e) A covered entity must take such steps as may be necessary to ensure that no qualified
3.20 individual with a disability is denied services such as transplantation-related counseling,
3.21 information, coverage, or treatment because of the absence of auxiliary aids and services,
3.22 unless the entity can demonstrate that taking such steps would fundamentally alter the nature
3.23 of the services being offered or result in an undue burden. A covered entity is not required
3.24 to provide supported decision-making services.

3.25 (f) A covered entity must otherwise comply with the requirements of Titles II and III of
3.26 the Americans with Disabilities Act of 1990, the Americans with Disabilities Act
3.27 Amendments Act of 2008, and the Minnesota Human Rights Act.

3.28 (g) The provisions of this section apply to each part of the organ transplant process.

3.29 Subd. 3. **Remedies.** In addition to all other remedies available under this chapter, any
3.30 individual who has been subjected to discrimination in violation of this section may initiate
3.31 a civil action in a court of competent jurisdiction to enjoin violations of this section.