

# Union Calendar No. 422

118TH CONGRESS  
2D SESSION

# H. R. 2706

[Report No. 118–507]

To prohibit discrimination on the basis of mental or physical disability in cases of organ transplants.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2023

Mrs. CAMMACK (for herself, Mrs. DINGELL, Mr. SESSIONS, Ms. WASSERMAN SCHULTZ, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Energy and Commerce

MAY 14, 2024

Additional sponsors: Mrs. BICE, Mr. FITZPATRICK, Mr. GARBARINO, Ms. KUSTER, Mr. MOULTON, Ms. BLUNT ROCHESTER, Mr. DAVIS of North Carolina, Ms. NORTON, Ms. CRAIG, Mr. RUTHERFORD, Mr. TONKO, Ms. PEREZ, Mr. COHEN, Ms. SHERRILL, Mr. STAUBER, Mr. CROW, Mrs. MILLER-MEEKS, Mr. MEUSER, Mr. HARDER of California, Mr. STEUBE, Ms. TENNEY, Ms. SLOTKIN, Mr. BACON, Mr. DUNN of Florida, Mr. DESAULNIER, Ms. BARRAGÁN, Mrs. HINSON, Mr. MOOLENAAR, Mr. ARMSTRONG, Mr. GROTHMAN, Mr. TRONE, Ms. BUSH, Mr. GOTTHEIMER, Ms. JAYAPAL, Ms. WILD, Mr. AMO, Ms. MOORE of Wisconsin, Mr. ALLRED, and Mrs. MILLER of Illinois

MAY 14, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 19, 2023]

# **A BILL**

To prohibit discrimination on the basis of mental or physical disability in cases of organ transplants.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “Charlotte Woodward*  
5 *Organ Transplant Discrimination Prevention Act”.*

6 **SEC. 2. DEFINITIONS.**

7        *In this Act:*

8            (1) *AUXILIARY AIDS AND SERVICES.*—*The term*  
9 *“auxiliary aids and services” has the meaning given*  
10 *the term in section 4 of the Americans with Disabil-*  
11 *ities Act of 1990 (42 U.S.C. 12103).*

12            (2) *COVERED ENTITY.*—*The term “covered enti-*  
13 *ty” means any licensed provider of health care serv-*  
14 *ices (including licensed health care practitioners, hos-*  
15 *pitals, nursing facilities, laboratories, intermediate*  
16 *care facilities, psychiatric residential treatment facili-*  
17 *ties, institutions for individuals with intellectual or*  
18 *developmental disabilities, and prison health centers),*  
19 *and any transplant hospital (as defined in section*  
20 *121.2 of title 42, Code of Federal Regulations or a*  
21 *successor regulation), that—*

22                    (A) *is in interstate commerce; or*

23                    (B) *provides health care services in a man-*  
24 *ner that—*

1                   (i) *substantially affects or has a sub-*  
2                   *stantial relation to interstate commerce; or*

3                   (ii) *includes use of an instrument (in-*  
4                   *cluding an instrument of transportation or*  
5                   *communication) of interstate commerce.*

6                   (3) *DISABILITY.*—*The term “disability” has the*  
7                   *meaning given the term in section 3 of the Americans*  
8                   *with Disabilities Act of 1990 (42 U.S.C. 12102).*

9                   (4) *HUMAN ORGAN.*—*The term “human organ”*  
10                  *has the meaning given the term in section 301(c) of*  
11                  *the National Organ Transplant Act (42 U.S.C.*  
12                  *274e(c)).*

13                  (5) *ORGAN TRANSPLANT.*—*The term “organ*  
14                  *transplant” means the transplantation or transfusion*  
15                  *of a donated human organ into the body of another*  
16                  *human for the purpose of treating a medical condi-*  
17                  *tion.*

18                  (6) *QUALIFIED INDIVIDUAL.*—*The term “quali-*  
19                  *fied individual” means an individual who, with or*  
20                  *without a support network, provision of auxiliary*  
21                  *aids and services, or reasonable modifications to poli-*  
22                  *cies or practices, meets eligibility requirements for the*  
23                  *receipt of a human organ.*

1           (7) *REASONABLE MODIFICATIONS TO POLICIES*  
2           *OR PRACTICES.*—*The term “reasonable modifications*  
3           *to policies or practices” includes—*

4                   (A) *communication with persons responsible*  
5                   *for supporting a qualified individual with post-*  
6                   *surgical or other care following an organ trans-*  
7                   *plant or related services, including support with*  
8                   *medication;*

9                   (B) *consideration, in determining whether a*  
10                   *qualified individual will be able to comply with*  
11                   *health requirements following an organ trans-*  
12                   *plant or receipt of related services, of support*  
13                   *networks available to the qualified individual,*  
14                   *including family, friends, and providers of home*  
15                   *and community-based services, including home*  
16                   *and community-based services funded through*  
17                   *the Medicare or Medicaid program under title*  
18                   *XVIII or XIX, respectively, of the Social Secu-*  
19                   *rity Act (42 U.S.C. 1395 et seq., 1396 et seq.),*  
20                   *another health plan in which the qualified indi-*  
21                   *vidual is enrolled, or any program or source of*  
22                   *funding available to the qualified individual;*  
23                   *and*

24                   (C) *the use of supported decision-making,*  
25                   *when needed, by a qualified individual.*

1           (8) *RELATED SERVICES*.—The term “related  
2           services” means services related to an organ trans-  
3           plant that consist of—

4                     (A) evaluation;

5                     (B) counseling;

6                     (C) treatment, including postoperative  
7           treatment, and care;

8                     (D) provision of information; and

9                     (E) any other service recommended or re-  
10          quired by a physician.

11          (9) *SUPPORTED DECISION-MAKING*.—The term  
12          “supported decision-making” means the use of a sup-  
13          port person to assist a qualified individual in making  
14          health care decisions, communicate information to the  
15          qualified individual, or ascertain a qualified individ-  
16          ual’s wishes. Such term includes—

17                     (A) the inclusion of the individual’s attor-  
18          ney-in-fact or health care proxy, or any person  
19          of the individual’s choice, in communications  
20          about the individual’s health care;

21                     (B) permitting the individual to designate a  
22          person of the individual’s choice for the purposes  
23          of supporting that individual in communicating,  
24          processing information, or making health care  
25          decisions;

1           (C) providing auxiliary aids and services to  
2           facilitate the individual’s ability to communicate  
3           and process health-related information, including  
4           providing use of assistive communication tech-  
5           nology;

6           (D) providing health information to persons  
7           designated by the individual, consistent with the  
8           regulations promulgated under section 264(c) of  
9           the Health Insurance Portability and Account-  
10          ability Act of 1996 (42 U.S.C. 1320d–2 note)  
11          and other applicable laws and regulations gov-  
12          erning disclosure of health information;

13          (E) providing health information in a for-  
14          mat that is readily understandable by the indi-  
15          vidual; and

16          (F) working with a court-appointed guard-  
17          ian or other person responsible for making health  
18          care decisions on behalf of the individual, to en-  
19          sure that the individual is included in decisions  
20          involving the health care of the individual and  
21          that health care decisions are in accordance with  
22          the individual’s own expressed interests.

23          (10) *SUPPORT NETWORK*.—The term “support  
24          network” means, with respect to a qualified indi-  
25          vidual, one or more people who are—

1           (A) selected by the qualified individual or  
2           by the qualified individual and the guardian of  
3           the qualified individual, to provide assistance to  
4           the qualified individual or guidance to that  
5           qualified individual in understanding issues,  
6           making plans for the future, or making complex  
7           decisions; and

8           (B) who may include the family members,  
9           friends, unpaid supporters, members of the reli-  
10          gious congregation, and appropriate personnel at  
11          a community center, of or serving the qualified  
12          individual.

13 **SEC. 3. PROHIBITION OF DISCRIMINATORY POLICY.**

14          The board of directors described in section  
15          372(b)(1)(B) of the Public Health Service Act (42 U.S.C.  
16          274(b)(1)(B)) shall not issue policies, recommendations, or  
17          other memoranda that would prohibit, or otherwise hinder,  
18          a qualified individual's access to an organ transplant solely  
19          on the basis of that individual's disability.

20 **SEC. 4. PROHIBITION OF DISCRIMINATION.**

21          (a) *IN GENERAL.*—Subject to subsection (b), a covered  
22          entity may not, solely on the basis of a qualified individ-  
23          ual's disability—

24                  (1) determine that the individual is ineligible to  
25          receive an organ transplant or related services;



1           (2) *deny the individual an organ transplant or*  
2 *related services;*

3           (3) *refuse to refer the individual to an organ*  
4 *transplant center or other related specialist for the*  
5 *purpose of receipt of an organ transplant or other re-*  
6 *lated services; or*

7           (4) *refuse to place the individual on an organ*  
8 *transplant waiting list.*

9       (b) *EXCEPTION.—*

10           (1) *IN GENERAL.—*

11           (A) *MEDICALLY SIGNIFICANT DISABIL-*  
12 *ITIES.—Notwithstanding subsection (a), a cov-*  
13 *ered entity may take a qualified individual's*  
14 *disability into account when making a health*  
15 *care treatment or coverage recommendation or*  
16 *decision, solely to the extent that the disability*  
17 *has been found by a physician, following an in-*  
18 *dividualized evaluation of the potential recipi-*  
19 *ent, to be medically significant to the receipt of*  
20 *the organ transplant or related services, as the*  
21 *case may be.*

22           (B) *CONSTRUCTION.—Subparagraph (A)*  
23 *shall not be construed to require a referral or*  
24 *recommendation for, or the performance of, a*

1           *medically inappropriate organ transplant or*  
2           *medically inappropriate related services.*

3           (2) *CLARIFICATION.—If a qualified individual*  
4           *has the necessary support network to provide a rea-*  
5           *sonable assurance that the qualified individual will be*  
6           *able to comply with health requirements following an*  
7           *organ transplant or receipt of related services, as the*  
8           *case may be, the qualified individual’s inability to*  
9           *independently comply with those requirements may*  
10          *not be construed to be medically significant for pur-*  
11          *poses of paragraph (1).*

12          (c) *REASONABLE MODIFICATIONS.—A covered entity*  
13          *shall make reasonable modifications to policies or practices*  
14          *(including procedures) of such entity if such modifications*  
15          *are necessary to make an organ transplant or related serv-*  
16          *ices available to qualified individuals with disabilities, un-*  
17          *less the entity can demonstrate that making such modifica-*  
18          *tions would fundamentally alter the nature of such policies*  
19          *or practices.*

20          (d) *CLARIFICATIONS.—*

21                 (1) *NO DENIAL OF SERVICES BECAUSE OF AB-*  
22                 *SENCE OF AUXILIARY AIDS AND SERVICES.—For pur-*  
23                 *poses of this section, a covered entity shall take such*  
24                 *steps as may be necessary to ensure that a qualified*  
25                 *individual with a disability is not denied a procedure*

1       *associated with the receipt of an organ transplant or*  
2       *related services, because of the absence of auxiliary*  
3       *aids and services, unless the covered entity can dem-*  
4       *onstrate that taking such steps would fundamentally*  
5       *alter the nature of the procedure being offered or*  
6       *would result in an undue burden on the entity.*

7               (2) *COMPLIANCE WITH OTHER LAW.—Nothing in*  
8       *this section shall be construed—*

9                       (A) *to prevent a covered entity from pro-*  
10                      *viding organ transplants or related services at a*  
11                      *level that is greater than the level that is re-*  
12                      *quired by this section; or*

13                     (B) *to limit the rights of an individual with*  
14                      *a disability under, or to replace or limit the*  
15                      *scope of obligations imposed by, the Americans*  
16                      *with Disabilities Act of 1990 (42 U.S.C. 12101*  
17                      *et seq.) including the provisions added to such*  
18                      *Act by the ADA Amendments Act of 2008, sec-*  
19                      *tion 504 of the Rehabilitation Act of 1973 (29*  
20                      *U.S.C. 794), section 1557 of the Patient Protec-*  
21                      *tion and Affordable Care Act (42 U.S.C. 18116),*  
22                      *or any other applicable law.*

23       (e) *ENFORCEMENT.—*

24               (1) *IN GENERAL.—Any individual who alleges*  
25       *that a qualified individual was subject to a violation*

1        *of this section by a covered entity may bring a claim*  
2        *regarding the allegation to the Office for Civil Rights*  
3        *of the Department of Health and Human Services, for*  
4        *expedited resolution, as appropriate.*

5            (2) *RULE OF CONSTRUCTION.—Nothing in this*  
6        *subsection is intended to limit or replace available*  
7        *remedies under the Americans with Disabilities Act of*  
8        *1990 (42 U.S.C. 12101 et seq.) or any other applica-*  
9        *ble law.*

10 **SEC. 5. APPLICATION TO EACH PART OF PROCESS.**

11        *The provisions of this Act—*

12            (1) *that apply to an organ transplant, also*  
13        *apply to the evaluation and listing of a qualified in-*  
14        *dividual, and to the organ transplant and post-organ-*  
15        *transplant treatment of such an individual; and*

16            (2) *that apply to related services, also apply to*  
17        *the process for receipt of related services by such an*  
18        *individual.*

19 **SEC. 6. EFFECT ON OTHER LAWS.**

20        *Nothing in this Act shall be construed to supersede any*  
21        *provision of any State or local law that provides greater*  
22        *rights to qualified individuals with respect to organ trans-*  
23        *plants than the rights established under this Act.*



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2<sup>D</sup> SESSION

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[Report No. 118-507]

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## A BILL

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MAY 14, 2024

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