

CHAPTER 80

AN ACT concerning anatomical gifts and supplementing P.L.2008, c.50 (C.26:6-77 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:6-86.1 Findings, declarations relative to anatomical gifts.

1. The Legislature finds and declares that:
 - a. A mental or physical disability does not diminish a person's right to health care;
 - b. The "Americans with Disabilities Act of 1990" prohibits discrimination against persons with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services;
 - c. Individuals with mental and physical disabilities have been denied life-saving organ transplants based on assumptions that their lives are less worthy, that they are incapable of complying with complex post-transplant medical regimens, or that they lack adequate support systems to ensure such compliance;
 - d. Although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in the Medicare and Medicaid programs are required to use patient selection criteria that result in a fair and non-discriminatory distribution of organs; and
 - e. New Jersey residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability.

C.26:6-86.2 Eligibility to receive anatomical gift.

2. a. An individual who is a candidate to receive an anatomical gift shall not be deemed ineligible to receive an anatomical gift solely because of the individual's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician or surgeon, following an individualized evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, an individual's inability to independently comply with those requirements shall not be deemed to be medically significant. The provisions of this subsection shall apply to each part of the organ transplant process.
 - b. The court shall accord priority on its calendar and expeditiously proceed with an action brought to seek any remedy authorized by law for purposes of enforcing compliance with the provisions of this section.
 - c. The provisions of this section shall not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.
 - d. As used in this section, "disability" has the same meaning as in the federal "Americans with Disabilities Act of 1990," Pub. L.101-336 (42 U.S.C. 12101 et seq.).

3. This act shall take effect immediately.

Approved July 17, 2013.