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National Council of Insurance Legislators (NCOIL)

Resolution in Support of The Living Donor Protection Act (S. 377/H.R. 1255)

**Adopted by the Life Insurance & Financial Planning Committee on April 16, 2021, and the Executive Committee on April 18, 2021.*

**Sponsored by Asw. Maggie Carlton (NV) and Rep. Wendi Thomas (PA)*

WHEREAS, deciding to donate an organ to someone else is one of the most selfless, difficult decisions anyone could ever make; and

WHEREAS, every day, 17 patients die on the national organ transplant waiting list which contains 108,000 people¹; and

WHEREAS, transplants from a living donor not only improve patient quality of life and extend life expectancy, they also save money as each year Medicare alone spends approximately \$89,000 per dialysis patient and less than half, \$35,000, for a transplant patient; and

WHEREAS, while organ donation saves thousands of lives every year, barriers remain that stop individuals from becoming living-donors; and

WHEREAS, almost a quarter of living donors experience difficulty securing or paying for insurance after their procedures because of unfair practices, and others face job loss after taking required time off to recover from their donation surgery; and

WHEREAS, the bipartisan “Living Donor Protection Act” (S. 377/H.R. 1255) would protect living organ donors and promote organ donation by making it unlawful to:

- decline or limit coverage of a person under any life insurance policy, disability insurance policy, or long-term care insurance policy, solely due to the status of such person as a living organ donor;

¹ <https://www.organdonor.gov/statistics-stories/statistics.html>

- preclude an insured from donating all or part of an organ as a condition of continuing to receive a life insurance policy, disability insurance policy, or long-term care insurance policy; or
- otherwise disadvantage consumers in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a life insurance policy, disability insurance policy, or long-term care insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

WHEREAS, the bill would also amend the Family and Medical Leave Act of 1993 to specifically include living organ donation as a serious health condition for private and civil service employees (thereby codifying an August 2018 U.S. Department of Labor opinion letter addressing this issue), and direct the U.S. Department of Health and Human Services to update their materials on live organ donation to reflect these new protections and encourage more individuals to consider donating an organ; and

WHEREAS, while NCOIL will always remain cautious regarding federal involvement in the proven state-based system of insurance regulation, such involvement is sometimes warranted and until federal legislation such as the “Living Donor Protection Act” is enacted that would give baseline protections to organ donors nationwide, states are operating under a patchwork of living organ donor protection laws; and

WHEREAS, NOW, THEREFORE, BE IT RESOLVED, that NCOIL urges Members of Congress to take action to pass the “Living Donor Protection Act” in order to remove barriers to organ donation and provide certainty to organ donors and recipients; and

WHEREAS, BE IT FINALLY RESOLVED, that a copy of this Resolution shall be distributed to the American Council of Life Insurers (ACLI); the National Association of Insurance Commissioners (NAIC); the members of the U.S. House Committees on Energy and Commerce, Oversight and Reform, House Administration, Education and Labor, and Financial Services; the members of the U.S. Senate Committee on Health, Education, Labor and Pensions; and the Chairs of the Committees of insurance jurisdiction in each Legislative Chamber of each State.