

1 HB31
2 156604-3
3 By Representatives Nordgren and Weaver
4 RFD: Health
5 First Read: 14-JAN-14
6 PFD: 10/18/2013

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to health care, to allow health care providers to decline to perform any health care service that violates their conscience and provide remedies for persons who exercise that right and suffer consequences as a result.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act may be known and cited as the
Health Care Rights of Conscience Act.

Section 2. The Legislature finds and declares:

(1) It is the public policy of the State of Alabama to respect and protect the fundamental right of conscience of individuals who provide health care services.

(2) Without comprehensive protection, health care rights of conscience may be violated in various ways, such as harassment, demotion, salary reduction, termination, loss of privileges, denial of aid or benefits, and refusal to license, or refusal to certify.

(3) It is the purpose of this act to protect religious or ethical rights of all health care providers to decline to counsel, advise, provide, perform, assist, or participate in providing or performing certain health care

1 services that violate their consciences, where they have made
2 their objections known in writing.

3 (4) It is the purpose of this act to prohibit
4 discrimination, disqualification, or coercion upon such health
5 care providers who decline to perform any health care service
6 that violates their conscience and who object in writing prior
7 to being asked to perform such health care services.

8 Section 3. The following words and terms shall have
9 the meanings ascribed to them in this section, unless
10 otherwise required by their respective context:

11 (1) CONSCIENCE. The religious, moral, or ethical
12 principles held by a health care provider.

13 (2) DISCRIMINATION. Discrimination includes, but is
14 not limited to: Hiring, termination, refusal of staff
15 privileges, refusal of board certification, demotion, loss of
16 career specialty, reduction of wages or benefits, adverse
17 treatment in the terms and conditions of employment, refusal
18 to award any grant, contract, or other program, or refusal to
19 provide residency training opportunities.

20 (3) HEALTH CARE PROVIDER. Any individual who may be
21 asked to participate in any way in a health care service,
22 including, but not limited to: A physician, physician's
23 assistant, nurse, nurse's aide, medical assistant, hospital
24 employee, clinic employee, nursing home employee, pharmacist,
25 researcher, medical or nursing school faculty, student, or
26 employee, counselor, social worker, or any professional,

1 paraprofessional, or any other person who furnishes or assists
2 in the furnishing of health care services.

3 (4) HEALTH CARE SERVICE. Any phase of patient
4 medical care, treatment or procedure that is limited to
5 abortion, human cloning, human embryonic stem cell research,
6 and sterilization, and is related to: Patient referrals,
7 counseling, therapy, testing, diagnosis or prognosis,
8 research, instruction, prescribing, dispensing or
9 administering any device, drug, or medication, surgery, or any
10 other care or treatment rendered or provided by health care
11 providers. Health care service does not include notifying a
12 member of a health care institution's management of a patient
13 inquiry about obtaining a health care service that a health
14 care provider believes may violate his or her conscience.

15 (5) OBJECT IN WRITING. To provide advance notice in
16 a signed written document to an authorized agent of his or her
17 employer, board, or other oversight agency of a particular
18 health care provider. The notice shall be provided within a
19 reasonable time, but in no case less than twenty-four (24)
20 hours prior to any service or procedure objected to under this
21 section by the health care provider.

22 (6) PARTICIPATE. To counsel, advise, provide,
23 perform, assist in, refer for, admit for purposes of
24 providing, or participate in providing, any health care
25 service or any form of such service. Participate does not
26 include compliance with a health care institution's policy and
27 procedure which states that a health care provider must notify

1 a member of the health care institution's management of a
2 patient's inquiry about obtaining a health care service that
3 the health care provider believes may violate his or her
4 conscience.

5 Section 4. (a) A health care provider has the right
6 not to participate, and no health care provider shall be
7 required to participate, in a health care service that
8 violates his or her conscience when the health care provider
9 has objected in writing prior to being asked to provide such
10 health care services.

11 (b) No health care provider shall be civilly,
12 criminally, or administratively liable for declining to
13 participate in a health care service that violates his or her
14 conscience except when failure to do would immediately
15 endanger the life of a patient.

16 (c) It shall be unlawful for any person, health care
17 provider, health care institution, public or private
18 institution, public official, or any board which certifies
19 competency in medical or health care specialties to
20 discriminate against any health care provider in any manner
21 based on his or her declining to participate in a health care
22 service that violates his or her conscience, where the health
23 care provider has made his or her objections known in writing.
24 Provided further, students may be evaluated based on their
25 understanding of course materials, but no student shall be
26 required to perform a health care service or be penalized

1 because he or she subscribes to a particular position on one
2 or more of the four health care services.

3 (d) Notwithstanding any other provision in this act,
4 in a life-threatening situation where no other health care
5 provider is available or capable of providing or participating
6 in a health care service, a health care provider shall provide
7 and participate in treatment, care, or procedures until an
8 alternate health care provider capable of providing or
9 participating in the emergency treatment, care, or procedures
10 is found or otherwise becomes available.

11 (e) Except as otherwise provided in this section, a
12 hospital, as defined in Section 22-21-20, Code of Alabama
13 1975, or other health care entity, and any employee,
14 physician, member, or person associated with the hospital or
15 other health care entity is immune from liability for any
16 damage caused by the refusal of a health care provider to
17 participate in a health care service defined in this act at a
18 facility owned, operated, or controlled by the hospital or
19 other health care entity.

20 Section 5. (a) An action for injunctive relief may
21 be brought for the violation of any provision of this act. It
22 shall not be a defense to any claim arising out of the
23 violation of this act that such violation was necessary to
24 prevent additional burden or expense on any other health care
25 provider or health care institution.

26 (b) The court in such action may award injunctive
27 relief, including ordering reinstatement of a health care

1 provider to his or her prior job position, back pay and costs
2 of the action.

3 Section 6. Nothing in this act shall be construed to
4 permit or require the violation of any Alabama statute,
5 regulation, or other provision of law that regulates or
6 provides rights, duties, obligations, or limitations related
7 in any way to abortion.

8 Section 7. The provisions of this act shall not
9 apply to health care institutions or employers who are
10 licensed by the State of Board of Health as abortion clinics.
11 Further, nothing in this act shall modify, amend, repeal, or
12 supersede any provision of Section 6-5-333 of the Code of
13 Alabama 1975, or any judicial interpretation thereof.

14 Section 8. If any part of this act or the
15 application thereof to any person or circumstances is held
16 invalid, such invalidity shall not affect parts or
17 applications of this act which can be given effect without the
18 invalid part or application and to this end, such invalid
19 portions of this act are declared severable.

20 Section 9. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 14-JAN-14

Read for the second time and placed
on the calendar with 1 substitute
and..... 15-JAN-14

Read for the third time and passed
as amended..... 21-JAN-14

Yeas 71, Nays 26, Abstains 2

Jeff Woodard
Clerk