

1 HB95
2 173640-2
3 By Representative Mooney
4 RFD: Health
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ENROLLED, 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 provide, perform, assist, or participate in providing or performing certain health care services that violate their consciences, where they have made their objections known in writing in advance.

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

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

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

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

19 (3) HEALTH CARE PROVIDER. Any individual who may be
 20 asked to participate in any way in a health care service,
 21 including, but not limited to: A physician, physician's
 22 assistant, nurse, nurse's aide, medical assistant, hospital
 23 employee, clinic employee, nursing home employee, pharmacist,
 24 researcher, medical or nursing school faculty, student, or
 25 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. Patient medical care,
4 treatment or procedure that is limited to abortion, human
5 cloning, human embryonic stem cell research, and
6 sterilization, and is related to: Testing, diagnosis or
7 prognosis, research, instruction, prescribing, dispensing or
8 administering any device, drug, or medication, surgery, or any
9 other care or treatment rendered or provided by health care
10 providers. Health care service does not include notifying a
11 member of a health care institution's management of a patient
12 inquiry about obtaining a health care service that a health
13 care provider believes may violate his or her conscience.

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

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

1 care provider must notify a member of the health care
2 institution's management of a patient's inquiry about
3 obtaining a health care service that the health care provider
4 believes may violate his or her 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) When objecting in writing in accordance with
12 this act, no health care provider shall be civilly,
13 criminally, or administratively liable for declining to
14 participate in a health care service that violates his or her
15 conscience except when failure to do so would immediately
16 endanger the life of a patient.

17 (c) It shall be unlawful for any person, health care
18 provider, health care institution, public or private
19 institution, public official, or any board which certifies
20 competency in medical or health care specialties to
21 discriminate against any health care provider in any manner
22 based on his or her declining to participate in a health care
23 service that violates his or her conscience, where the health
24 care provider has made his or her objections known in writing.
25 Provided further, students may be evaluated based on their

1 understanding of course materials, but no student shall be
2 required to perform a health care service or be penalized
3 because he or she subscribes to a particular position on
4 health care services.

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

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

23 Section 5. (a) An action for injunctive relief may
24 be brought for the violation of any provision of this act.

1 (b) The court in such action may award injunctive
2 relief, including ordering reinstatement of a health care
3 provider to his or her prior job position, back pay and costs
4 of the action.

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

10 Section 7. The provisions of this act shall not
11 apply to health care institutions or employers who are
12 licensed by the State of Board of Health as abortion clinics.
13 Further, nothing in this act shall modify, amend, repeal, or
14 supersede any provision of Section 6-5-333 of the Code of
15 Alabama 1975, or the "Alabama Medical Liability Act of 1987"
16 commencing with Section 6-5-540, Code of Alabama 1975, et
17 seq., or the Alabama Medical Liability Act of 1996, commencing
18 with Section 6-5-548, Code of Alabama 1975, et seq., or any
19 amendment to any of the foregoing, or any judicial
20 interpretation of any of the foregoing.

21 Section 8. If any part, section, or subsection of
22 this act or the application thereof to any person or
23 circumstances is held invalid, such invalidity shall not
24 affect parts, sections or subsections or applications of this
25 act which can be given effect without the invalid part,

1 section, or subsection or application and to this end, such
2 invalid portions of this act are declared severable.

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

