

SENATE BILL NO. 348

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 3/27/98

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to rights of conscience protection for persons who directly or
2 indirectly provide or perform health care services."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 18 is amended by adding a new chapter to read:

5 **Chapter 17. Rights of Conscience Protection.**

6 **Sec. 18.17.010. Policy.** It is the public policy of the state to respect and
7 protect the rights of conscience of all persons who are involved in providing health
8 services. It is the purpose of this chapter to protect as a basic civil right the right of
9 all persons to refuse to counsel, advise, pay for, provide, perform, assist, or participate
10 directly or indirectly in providing or performing health services that violate the
11 persons' religious or moral convictions and to prohibit all forms of discrimination,
12 disqualification, coercion, disability, or liability of the persons by reason of their
13 refusals.

14 **Sec. 18.17.020. Civil rights of conscience.** (a) A person has the right not to

1 counsel, advise, pay for, provide, perform, assist, or participate directly or indirectly
 2 in providing or performing health services that violate that person's religious or moral
 3 convictions.

4 (b) A person may not be required to counsel, advise, pay for, provide, perform,
 5 assist, or participate directly or indirectly in providing or performing health services
 6 that violate that person's religious or moral convictions.

7 **Sec. 18.17.030. Individual rights of conscience.** (a) An individual may not
 8 be required to counsel, advise, pay for, provide, perform, assist, or participate directly
 9 or indirectly in providing or performing health services that violate the individual's
 10 religious or moral convictions.

11 (b) An individual is not civilly, criminally, or administratively liable to a
 12 person for refusing, upon request or assignment, to counsel, advise, pay for, provide,
 13 perform, assist, or participate directly or indirectly in providing or performing health
 14 services that violate the individual's religious or moral convictions if

15 (1) before the request or assignment, the individual notified the person
 16 making the request or assignment of the individual's refusal to provide or perform that
 17 type of health service and, if requested to do so, the individual stated the refusal in
 18 writing; or

19 (2) within 24 hours after being asked or assigned to provide or perform
 20 the health services, the individual notified the person making the request or assignment
 21 of the individual's refusal.

22 (c) A person may not discriminate against, penalize, discipline, or retaliate
 23 against an individual in employment; privileges; benefits; remuneration; promotion;
 24 termination of employment; eligibility for admission to, renewal or participation in, or
 25 graduation from an educational, study, or training program; or a grant, contract, or
 26 other program because of the individual's refusal or unwillingness to counsel, advise,
 27 pay for, provide, perform, assist, or participate directly or indirectly in providing or
 28 performing health services that violate the individual's religious or moral convictions.

29 **Sec. 18.17.040. Institutional rights of conscience.** (a) A health care
 30 institution may not be required to counsel, advise, pay for, provide, perform, assist, or
 31 participate in providing or performing a health service that violates the religious or

1 moral convictions of the board of directors or other administrative head of the
 2 institution or of its owners, partners, or shareholders. A health care institution is not
 3 required to admit or keep a patient for the purpose of providing to that patient a health
 4 service that violates the religious or moral convictions of the board of directors or
 5 other administrative head of the institution or of its owners, partners, or shareholders.

6 (b) A health care institution is not civilly, criminally, or administratively liable
 7 to a person for refusing to participate directly or indirectly in providing or performing
 8 a health service that violates the religious or moral convictions of the board of
 9 directors or other administrative head of the institution or of its owners, partners, or
 10 shareholders if the institution

11 (1) posted notice of its refusal policy in plain sight in the admission
 12 area of the institution before the health service is requested; or

13 (2) within 24 hours after receiving the request, notified the person
 14 requesting the health service of its refusal and there has been no irreversible change
 15 in the circumstances of the patient or person making the request during the time
 16 between making the request and the institution's refusal that would make it unjust for
 17 the institution to refuse the request.

18 (c) A person may not discriminate or retaliate against a health care institution
 19 in a grant, contract, or program because of the institution's refusal to counsel, advise,
 20 pay for, provide, perform, assist, or participate directly or indirectly in providing or
 21 performing health services that violate the religious or moral convictions of the board
 22 of directors or other administrative head of the institution or of its owners, partners,
 23 or shareholders.

24 **Sec. 18.17.050. Exceptions.** (a) This chapter does do not apply to a health
 25 service that

26 (1) is necessary to save the life of an individual in any stage or
 27 condition of existence from imminent death;

28 (2) requires for its success the immediate assistance of a person
 29 asserting religious or moral objections; and

30 (3) must be performed before a replacement for a person asserting
 31 religious or moral objections can be obtained or reasonably could have been obtained.

1 (b) This chapter does not relieve a person from liability to pay for a health
 2 service, for which the person freely and knowingly contracted to pay, that was
 3 performed before a timely conscientious objection was asserted by the person.

4 (c) A health care institution or a department or division of the institution that
 5 is established for the sole or primary purpose of providing specific types of health
 6 services may exclude an individual who objects to the services from employment in
 7 a position for which the performance of the services is a necessary and substantial
 8 responsibility if the individual's moral or conscience rights cannot be reasonably
 9 accommodated by diligent effort.

10 **Sec. 18.17.060. Remedies.** (a) Notwithstanding other provisions of law, a
 11 person injured by an act or omission that violates a provision of this chapter may
 12 obtain an injunction and is entitled to receive three times the actual damages sustained
 13 by the person or \$3,000 for each violation, whichever is greater.

14 (b) Remedies provided for under this section are in addition to other remedies
 15 that may be available under federal or state law.

16 **Sec. 18.17.070. Definitions.** In this chapter,

17 (1) "health care institution" means a public or private corporation,
 18 partnership, association, organization, agency, or other entity that is involved in
 19 providing health services; in this paragraph, "entity" includes a hospital, clinic,
 20 physician's office, medical school, nursing school, other health service training
 21 institution, insurance organization, or financing organization;

22 (2) "health service" means a phase or type of service, including testing,
 23 diagnosis, prognosis, research, counseling, therapy, treatment, family planning, referral,
 24 prescription, medication, or surgery, intended for the physical, emotional, or mental
 25 well-being of an individual and any necessary support services performed at a health
 26 care institution or by a health professional, paraprofessional, or pharmacist or by an
 27 employee of a health professional, paraprofessional, or pharmacist.

28 * **Sec. 2.** Under AS 01.10.030, if any provision of AS 18.17.010 - 18.17.070 or the
 29 application of AS 18.17.010 - 18.17.070 to any person or circumstance is held invalid, the
 30 remainder of AS 18.17.010 - 18.17.070 or the application of those statutes to other persons
 31 or circumstances is not affected.