

SB

14

<TARGET><BILL>SB 14</BILL><SUBJECT>SB
14</SUBJECT><COMM>SHSS27</COMM></TARGET>



Senator Fred Dyson

SPONSOR STATEMENT

SB 14 - Health Care Provider Protection of Conscience

The purpose of this bill is to provide for the protection and reasonable accommodation of a health care provider's expression of professional conscience in the provision of health care services.

Today we are experiencing an unprecedented explosion in science and technology which in turn influences concepts in medical practice. While they have benefited mankind in many areas, these advances pose dilemmas of an ethical and professional nature. The issue of a right to conscience in health care is one of the most pressing public issues of our time.

A health care professional's view of health, sickness, patient care and purpose of medicine comprise a well-formed professional conscience. This conscience is changed with new information and technology. A broad application of a right of conscience applies to the issues of end of life care, consumer genetic testing, the practice of pain management, psychotropic drug use, sterilizations, race-specific medications, infant circumcision, physician and nurse complicity in capital punishment, physician assisted suicide, abortion, etc.

This bill recognizes the societal benefits that divergent organizational identities bring; the relational dimension of professional conscience between health care institutions and providers, between providers and patients, and between providers and communities; and helps ensure the conditions necessary for the conversations of conscience to continue concerning the health care profession.

Most states have laws protecting the conscience rights of health care providers. Alaska law currently does not provide for a general health care provider protection of conscience.

SB 14 provides a guarantee for the exercise of health care provider conscience in an increasingly pluralistic environment. All health care providers must be treated equally, and must have recourse to the exception made for conscience.

Contact: Chuck Kopp, Staff to Senator Fred Dyson, (907)465-2199

February 21, 2011
P.O. Box 1117
Soldotna, AK 99669

Senator Fred Dyson
Alaska State Capitol Room 121
Juneau, Alaska 99801

Dear Senator Dyson,

Recently I have been in discussion with other health care providers over concerns of the possibility of being forced to be involved in medical procedures that would be considered unethical to them. I would like to commend you and support you in your proposal of Senate Bill 14. I feel this is needed protection which needs to be guaranteed.

Thank you,
Pamela Howard RN

WK: (907) 283-1723



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Sean Parnell, Governor
Emil Natti, Commissioner
Don Habiger, Director

Division of Corporations, Business and Professional Licensing

February 24, 2011

Honorable Senator Fred Dyson
State Capitol, Room 121
Juneau AK 99801

RE: Alaska Board of Pharmacy Letter of Support –
Senate Bill 14: Protect Health Care Provider Conscience, as offered by
Senator Dyson in the First Session of the 27th Alaska Legislature

Dear Senator Dyson,

Thank you for your presentation regarding Senate Bill 14 during the February 18th meeting of Alaska Board of Pharmacy. The members and audience gained valuable insight into the goals and parameters of your bill.

The mission of the Board of Pharmacy is taken very seriously. It is, per Alaska Statute Sec 08.80.005, *to promote, preserve and protect the public health, safety and welfare through effective control and regulation of the practice of pharmacy.* Senate Bill 14 is consistent with that mission.

As Chairman, and without reservation, the Alaska Board of Pharmacy announces its support of Senate Bill 14 regarding Conscience Objection by Health Care Providers and wishes you continued success in its forward movement through the house and senate.

Respectfully Submitted,

Richard "Dick" Holm, RPh, Chairman
Alaska Board of Pharmacy

Chuck Kopp

From: Thomas Wells [tomwells@gci.net]
Sent: Thursday, January 27, 2011 3:13 PM
To: Chuck Kopp
Subject: SB 14

Dear Senator Dyson:

I have reviewed Senate Bill 14 concerning health care provider protection of conscience. I feel this is a good bill that protects the actions of providers who in good conscience do not provide drugs or treatment to patients who request treatment, medications or procedures that the provider feels is unethical or detrimental to the patient's health. A prescription by one provider should not obligate another provider to perform procedures that could be harmful to the patient or unethical in the eyes of the second provider. Pharmacists should not be obligated to provide large volumes of addictive drugs to patients who are prone to drug addiction. I am sure there are a multitude of other circumstances in which the conscience provider needs protection.

Sincerely,

Thomas J. Wells DDS, MS

William W. Resinger, M.D.
P.O. Box 839
Palmer, Alaska 99645

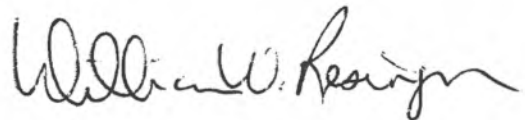
1/27/11

Senator Fred Dyson
Alaska State Capitol, Room 121
Juneau, Alaska 99801

Dear Senator Dyson:

I have reviewed your proposed bill, SB 14 -Health Provider Protection of Conscience, and I wish to extend my strong support for your proposal. I have been a physician since 1969 and I have indeed seen great changes in the practice of medicine over the years. There are increasing pressures coming to bear on medical workers which pose ethical and professional dilemmas. I have personally given written notice that I would not participate in certain procedures except for life threatening circumstances and, even then, I have faced considerable pressure to force my assistance. Fortunately I have been able to withstand the pressure so far, but I can see how your bill would provide much needed protection and strengthening of my position of conscience and would give further help to many other medical workers who might face even greater coercive pressure. Your bill is a well directed effort to provide legal protection of conscience for health care workers and it fills a real need in a complex, diverse, and highly technical modern society. While I would never have anticipated this need in 1969, I can now see the great necessity for your bill today. If I can be of any help in your efforts, please feel free to contact me.

Sincerely ,

A handwritten signature in cursive script that reads "William W. Resinger". The signature is written in dark ink and is positioned above the typed name.

William W. Resinger, M.D.

SENATE BILL NO. 14

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATORS DYSON AND COGHILL

Introduced: 1/7/11

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for the protection and reasonable accommodation of a health care
2 provider's expression of conscience pertaining to a health care service; and providing
3 for immunity, an exception, and prohibition of discrimination for an expression of
4 conscience by a health care provider."

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

6 * **Section 1.** AS 18.95 is amended by adding a new section to read:

7 **Sec. 18.95.015. Protection, reasonable accommodation, and notice of**
8 **conscience objection by health care provider.** (a) Except as provided in (c) of this
9 section, an employer who receives a notice of objection described in (b) of this section
10 shall make reasonable accommodations for the employee providing the notice and
11 may not discriminate against an employee who provides the notice.

12 (b) A person who is employed as a health care provider may provide advance
13 written notice to the person's employer of an objection to providing health care
14 services. A health care provider is not required to provide a written explanation of the

1 reason for the objection, but the objection must be related to the provider's conscience.
2 The objection may not be based on a patient's race, religion, sex, age, disability, or
3 national origin.

4 (c) An employer is not required to accommodate an employee who has
5 provided notice under (b) of this section if the employer demonstrates that the
6 accommodation poses an undue hardship on the employer or the objecting employee is
7 the only health care provider available to assist in the provision of health care services
8 in a life-threatening circumstance.

9 (d) Notwithstanding the provision of a written notice of objection under (b) of
10 this section, a health care provider may not refuse to provide treatment or care to a
11 patient seeking health care services in a life-threatening circumstance until an alternate
12 health care provider is available.

13 (e) A person who refuses to provide health care services in compliance with
14 this section may not be held civilly or criminally liable for consequences resulting
15 from the compliance.

16 (f) This section shall be construed in a manner consistent with 42 U.S.C.
17 2000e - 2000e-17 (Title VII, Civil Rights Act of 1964), as amended.

18 (g) In this section,

19 (1) "health care provider" means a person licensed, certified, or
20 registered in the state who provides health care services; in this paragraph, "provide"
21 means to counsel, advise, perform, dispense, assist, or refer;

22 (2) "health care services" means treatment, management, and research
23 of illness and health;

24 (3) "life-threatening circumstance" means a situation that poses an
25 immediate risk to a person's life or long-term health.



SENATOR FRED DYSON

SB 14 – SECTIONAL ANALYSIS

Section 1.

1. Provides within Alaska Statutes, *Title 18 - Health, Safety, and Housing*, a protection and reasonable accommodation for a health care provider's expression of conscience pertaining to provision of a health care service; and
2. Establishes written notice as the method of communicating an expression of conscience, and that the employer will reasonably accommodate and not discriminate against the employee providing notice; and
3. Provides that the notice does not have to include the reason for the objection, but must be related to the provider's conscience and not to a protected status of the patient; and
4. Provides that an employer is not required to accommodate the employee if the employer demonstrates the accommodation poses undue hardship or the objecting employee is the only health care provider available in a life-threatening circumstance, and that the health care provider may not refuse to provide treatment or care in a life-threatening circumstance until an alternate health care provider is available; and
5. Provides civil and criminal immunity to health care providers who express conscience in compliance with this section; and
6. Provides that this section will be construed in a manner consistent with Title VII of the Civil Rights Act of 1964; and
7. Defines terms.

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB014
 () Publish Date: _____

Identifier (file name): SB014-DHSS-PHA-03-04-11
 Title: Object to Providing Health Care Services
 Sponsor: Sen. Dyson, Sen. Coghill
 Requester: Senate HSS Committee
 Dept. Affected: Health and Social Services
 Appropriation: Public Health
 Allocation: PH Administration
 OMB Component Number: 292

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other (please identify)								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2011) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable. Initial version.

Prepared by: Ward B. Hurlburt, M.D., MPH - Chief Medical Officer/ Director
 Division: Public Health
 Approved by: Alison Elgee, Assistant Commissioner
DHSS Finance & Management Services

Phone 269-6680
 Date/Time 3/3/11 12:00 AM
 Date 3/4/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. SB014

Analysis:

This bill protects a health care provider who objects to performing a health care service based on his or her professional conscience. This bill has no financial impact on the Department.

RECEIVED

MAR 07 2011



March 7, 2011

AMERICAN CIVIL
LIBERTIES UNION OF
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STEPHANIE PAWLOWSKI, Anchorage
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NADINE WINTERS, Fairbanks

ZACH FICK, Anchorage
STUDENT ADVISOR

The Honorable Betty Davis, Chair
Senate Health & Social Services Committee
Alaska State Senate
Juneau, AK 99801-1182
via email: [Senator Bettve Davis@legis.state.ak.us](mailto:Senator_Bettve_Davis@legis.state.ak.us)

Re: **Senate Bill 14**
ACLU Statement in Opposition

Chair Davis:

Thank you for the opportunity to submit written testimony with respect to Senate Bill 14.

As you know, the American Civil Liberties Union of Alaska represents thousands of members and activists throughout the state who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. In that regard, we would like to advise the Committee of several issues with respect to SB 14, and register our **strong opposition to the proposed legislation.**

Importance of Religious Liberty

The ACLU has long been a defender of religious liberty. Our work in defending the free exercise rights of people of faith is robust – both at the National and State levels. For example, the ACLU of Alaska worked with the Russian Old Believer Community in the Homer area to ensure that the state would not improperly interfere with their practice of Holy Week. *See*, http://homernews.com/stories/021810/news_wto.shtml.

A quick review of the website ACLU Fights for Christians, at: <http://www.aclufightsforchristians.com/>, reveals the continuing work of our sister Affiliates to protect the rights of all Americans to practice and believe free of government interference.

Importance of Privacy and Right to Bodily Integrity

Pursuant to our mandate to protect the constitutional rights of Americans, the ACLU also defends the right to privacy, including medical privacy and reproductive freedom. Individuals must control decisions about their bodies and their health, and the government should not make those decisions for them.

SB 14 allows health care providers to refuse to provide health services, even if they are the only available provider, unless there are “life threatening circumstances.” It gives civil and criminal immunity to those health care providers regardless of the grievous harm that could be inflicted on a patient.

SB 14 does not draw the proper balance in protecting religious liberty and individual privacy, and in ensuring Alaskans’ health.

Refusals to Provide Health Care Services Threaten Public Health

An employee’s refusal to provide health care threatens the health and safety of Alaskans – particularly in rural areas where medical services are limited. ***SB 14 is a dangerous step away from government’s responsibility to protect public health.***

Instead of putting patients’ health first, it seeks to protect individuals ***who have otherwise taken an oath to provide medical services to those in need.*** A refusal can conflict with a health care provider’s ethical duty to her patient. And SB 14 does not provide the safeguards medically recommended:

Conscientious refusals that conflict with patient well-being should be accommodated only if the primary duty to the patient can be fulfilled. . . . In resource poor areas, access to safe and legal reproductive services should be maintained. Providers with moral or religious objections should either practice in proximity to individuals who do not share their views or ensure that referral processes are in place.

http://www.acog.org/from_home/publications/ethics/co385.pdf, American College of Obstetricians and Gynecologists, Committee on Ethics, Opinion No. 385, November 2007, (Reaffirmed 2010).

The Proper Balance of Patients' Rights & Public Health with Religious Belief

The debate over religious refusals and health services need not be cast as a “winner take all contest” between “opposing” sides. The ACLU believes in a solution that balances protecting patients' rights and the public health with individual religious belief and institutional religious worship.

Institutions that operate in the public world ought to play by public rules. Health care providers serve and employ religiously diverse populations. Too, they often accept government funding. They are in the business of providing health services – not practicing religion. But SB 14 would permit a health care provider – even if that individual is the only provider on the premises – to refuse to provide care on the basis of “conscience” unless the patient was seeking care in life-threatening circumstances. It sanctions behaviors that are contrary to the interests of patients, and the standards of care required of Alaska health care providers.

This is bad public policy. Moreover, as written, SB 14 could come into conflict with the Alaska Supreme Court's decision in *Valley Hospital Association, Inc., v. Mat-Su Coalition for Choice* (1997) 948 P.2d 963, and result in needless, costly, and extended litigation. (In light of existing federal law, *see below*, passage of SB 14 would thus be doubly unwise.)

Clearly, institutions such as churches, temples, or mosques, whose main purpose is to inculcate religious values, *ought generally to be free from having to comply with health care requirements repugnant to their beliefs*. But SB 14 dangerously goes beyond this principle.

SB 14 is Unnecessary

SB 14 is an unnecessary effort to protect an individual's right to not participate in procedures he or she finds objectionable because *that right is already protected under the Civil Rights Act*. Title VII of that act requires an employer to attempt to accommodate current and prospective employees' refusals to provide any health care service on the basis of their religious beliefs so long as the accommodation does not pose an undue hardship on the employer's overall ability to provide health care services to its patients.

Title VII contemplates a careful balancing of interests. It gives employers leeway to take into account the effect of an employee's refusal on public health and safety, and at the same time, Title VII seeks the maximum possible accommodation of an individual's religious objection. The Civil Rights Act finds the middle ground between an employee's moral and religious objections and the needs of the patient to have access to the best healthcare possible.

Except for a “life-threatening circumstance,” SB 14 makes no mention of the **patient's needs**. It implies that the patient's health is a low priority and that the patient's own moral grounding on what is and is not acceptable is unimportant. In addition – other than “life-threatening circumstances” – SB 14 includes no provision requiring the healthcare provider to find the means

for the patient to have access to the procedure in question. If the employee refuses to give the patient the necessary treatment, the patient is harmed with no recourse.

As Bad Public Policy, SB 14 Should Die in Committee

For the reasons set forth above, the ACLU believes SB 14 is bad for Alaska and particularly threatens the health of those in rural areas who are most vulnerable and in need of improved medical care.

We trust that the Health and Social Services Committee will take the necessary steps to ensure this bill does not proceed any further through the legislative process.

Thank you again permitting us to share our concerns. Please feel free to contact the undersigned should you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. Mittman", with a long horizontal flourish extending to the right.

Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Senator Dennis Egan, Senator_Dennis_Egan@legis.state.ak.us
Senator Johnny Ellis, Senator_Johnny_Ellis@legis.state.ak.us
Senator Kevin Meyer, Senator_Kevin_Meyer@legis.state.ak.us
Senator Fred Dyson, Senator_Fred_Dyson@legis.state.ak.us

ALASKA STATE SENATE



SENATOR FRED DYSON

SB 14 Witness & Contact Info

William W. Resinger, MD	(907)745-1763
Thomas J. Wells, DDS, MS	(907)277-4546
Paul J. Gionet, RPh	(907)279-2425
Julie McDonald, RPh	(907)826-5750
Stephen L. Hileman, MD	(907)262-2629
Pamela Howard, RN	(907)283-1723

During Session (January - May): Alaska State Capitol • Juneau, Alaska 99801 • (800) 342-2199 • (907) 465-2199 • (907) 465-4587 (fax)

During Interim (June-December): 10928 Eagle River Road, Suite 238 • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 (fax)

senator.fred.dyson@legis.state.ak.us • www.akRepublicans.org

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

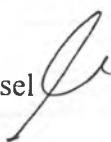
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 18, 2011

SUBJECT: Effect of bill (SB 14 (Work Order No. 27-LS0105\B))

TO: Senator Bettye Davis
Chair of the Senate Health and Social Services Committee
Attn: Celeste Hodge

FROM: Jean M. Mischel
Legislative Counsel 

You have asked about the effect of SB 14, if passed by the legislature. SB 14 requires an employer to make reasonable accommodation and prohibits discrimination against an employee who has provided a notice of an objection, without explanation, to providing health care services. Health care services in the bill is defined broadly to include the treatment, management, and research of illness and health. Employer is not defined. An exception to the accommodation by the employer applies when the employer can demonstrate undue hardship or the lack of availability of another employee. The bill also precludes refusal of services in a life-threatening circumstance until an alternate employee is available. The bill provides for the objecting employee with immunity from civil and criminal liability. If you would like information about the societal benefits and need for the bill, please contact the sponsor directly.

If I may be of further assistance, please advise.

JMM:plm
11-098.plm

SB14 - OBJECT TO PROVIDING HEALTH CARE SERVICES

DOESN'T SUPPORT

Jeffrey Mittman, ACLU
Planned Parenthood

SUPPORTS

Pamela Howard RN, 283-1723
William W. Resinger, M.D., Palmer, AK
Thomas Wells DDS, MS
Richard "Dick" Holm, RPh, Chairman, Alaska Board of
Pharmacy

LEGISLATIVE RESEARCH REPORT

FEBRUARY 25, 2011



REPORT NUMBER 11.188

GENERAL PROTECTION OF CONSCIENCE LAWS FOR HEALTHCARE PROVIDERS

PREPARED FOR SENATOR FRED DYSON

BY TIM SPENGLER, LEGISLATIVE ANALYST

You asked about states with generally-worded protection of conscience laws. Specifically, you wanted to know which states have enacted provisions allowing a healthcare provider to abstain from participating in medical procedures (not specific to abortion) that go against her or his conscience.¹

We identified four states (Idaho, Illinois, Louisiana, and Mississippi) that have enacted general protection of conscience laws for healthcare providers.² According to Sean Murphy, administrator of the Protection of Conscience Project, conscience provisions that are broadly worded (as in these states) are preferable to more narrowly articulated statutes. He asserts that as new medical procedures can arise at any time, attempting to enumerate all potential issues of conscience for healthcare professionals in statute is impractical.³

Below we provide excerpts from Idaho, Illinois, Louisiana, and Mississippi statutes regarding protection of conscience for healthcare providers. We include the complete relevant statutes from these states as Attachment A.

Idaho (IC 18-611):

IC 18-611(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

IC 18-611(4) No health care professional or employer of the health care professional shall be civilly, criminally or administratively liable for the health care professional

¹ Alaska and 46 other states (all but Alabama, New Hampshire, and Vermont) have laws that allow healthcare providers to refuse to participate in abortions.

² While we believe this list to be complete, it is possible that relevant provisions from other states may have eluded us.

³ Sean Murphy can be reached at (604) 485-9765. The Protection of Conscience Project is a Canada-based organization that works to ensure that people are not forced to facilitate practices or procedures to which they object for reasons of conscience. These practices include abortion, capital punishment, contraception, sterilization, artificial reproduction, euthanasia, embryonic experimentation, assisted suicide, human experimentation, and torture (<http://www.consciencelaws.org/>).

declining to provide health care services that violate his or her conscience, except for life threatening situations as provided for in subsection (6) of this section.

Illinois (745 ILCS 70/1, Sec. 4):

No physician or health care personnel shall be civilly or criminally liable to any person, estate, public or private entity or public official by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health care personnel.

Louisiana (La. Rev. Stat. Ann. tit. 40, § 1299.35.9):

A. (1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

Mississippi (MC § 41-107-5):

(1) Rights of Conscience. A health care provider has the right not to participate, and no health care provider shall be required to participate in a health care service that violates his or her conscience. However, this subsection does not allow a health care provider to refuse to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

We hope you find this information to be useful. Please let us know if you have questions or need additional information.

Attachment A

Idaho, Illinois, Louisiana, and Mississippi provisions regarding protection of conscience for healthcare providers.



West's Idaho Code Annotated Currentness

Title 18. Crimes and Punishments

 Chapter 6. Abortion and Contraceptives

➔ § 18-611. Freedom of conscience for health care professionals

(1) As used in this section:

(a) "Abortifacient" means any drug that causes an abortion as defined in 18-604, Idaho Code, emergency contraception or any drug the primary purpose of which is to cause the destruction of an embryo or fetus.

(b) "Conscience" means the religious, moral or ethical principles sincerely held by any person.

(c) "Embryo" means the developing human life from fertilization until the end of the eighth week of gestation.

(d) "Fetus" means the developing human life from the start of the ninth week of gestation until birth.

(e) "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.

(f) "Health care service" means an abortion, dispensation of an abortifacient drug, human embryonic stem cell research, treatment regimens utilizing human embryonic stem cells, human embryo cloning or end of life treatment and care.

(g) "Provide" means to counsel, advise, perform, dispense, assist in or refer for any health care service.

(h) "Religious, moral or ethical principles," "sincerely held," "reasonably accommodate" and "undue hardship" shall be construed consistently with Title VII of the federal civil rights act of 1964, as amended.

(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

(3) Employers of health care professionals shall reasonably accommodate the conscience rights of their employees as provided in this section, upon advanced written notification by the employee. Such notice shall suffice without specification of the reason therefor. It shall be unlawful for any employer to discriminate against any health care professional based upon his or her declining to provide a health care service that violates his or her conscience, unless the employer can demonstrate that such accommodation poses an undue hardship.

(4) No health care professional or employer of the health care professional shall be civilly, criminally or administratively liable for the health care professional declining to provide health care services that violate his or her conscience, except for life-threatening situations as provided for in subsection (6) of this section.

(5) The provisions of this section do not allow a health care professional or employer of the health care professional to refuse to provide health care services because of a patient's race, color, religion, sex, age, disability or national origin.

(6) If a health care professional invokes a conscience right in a life-threatening situation where no other health care professional capable of treating the emergency is available, such health care professional shall provide treatment and care until an alternate health care professional capable of treating the emergency is found.

(7) Nothing in this section shall affect the rights of conscience provided for in section 18-612, Idaho Code, to the extent that those rights are broader in scope than those provided for in this section.

CREDIT(S)

Added by S.L. 2010, ch. 127, § 1, eff. July 1, 2010.

HISTORICAL AND STATUTORY NOTES

2010 Legislation

S.L. 2010, ch. 127, § 2, provides:

“The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.”

Former Section:

Former § 18-611, repealed by S.L. 2000, ch. 7, § 6, which related to patient's representations that physicians and hospitals may accept, was derived from S.L. 1973, ch. 197, § 10, p. 442.

RESEARCH REFERENCES

Treatises and Practice Aids

Wharton's Criminal Law § 254, First Trimester.

I.C. § 18-611, ID ST § 18-611

Current through the end of the 2010 Second Regular Session of the 60th Legislature

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END OF DOCUMENT

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 745. Civil Immunities

→ Act 70. Health Care Right of Conscience Act (Refs & Annos)

→ 70/1. Short title

§ 1. Short title. This Act may be cited as the Health Care Right of Conscience Act.

70/2. Findings and policy

§ 2. Findings and policy. The General Assembly finds and declares that people and organizations hold different beliefs about whether certain health care services are morally acceptable. It is the public policy of the State of Illinois to respect and protect the right of conscience of all persons who refuse to obtain, receive or accept, or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care.

70/3. Definitions

§ 3. Definitions. As used in this Act, unless the context clearly otherwise requires:

(a) "Health care" means any phase of patient care, including but not limited to, testing; diagnosis; prognosis; ancillary research; instructions; family planning, counselling, referrals, or any other advice in connection with the use or procurement of contraceptives and sterilization or abortion procedures; medication; or surgery or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons;

(b) "Physician" means any person who is licensed by the State of Illinois under the Medical Practice Act of 1987; [FNI]

(c) "Health care personnel" means any nurse, nurses' aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services;

(d) "Health care facility" means any public or private hospital, clinic, center, medical school, medical training institution, laboratory or diagnostic facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center or other institution or location wherein health care services are provided to any person, including physician organizations and associations, networks, joint ventures, and all other combinations of those organizations;

(e) "Conscience" means a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths; and

(f) "Health care payer" means a health maintenance organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any health care or medical care service,

procedure, or product.

The above definitions include not only the traditional combinations and forms of these persons and organizations but also all new and emerging forms and combinations of these persons and organizations.

[FN1] 225 ILCS 60/1 et seq.

70/4. Liability

§ 4. Liability. No physician or health care personnel shall be civilly or criminally liable to any person, estate, public or private entity or public official by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health care personnel.

70/5. Discrimination

§ 5. Discrimination. It shall be unlawful for any person, public or private institution, or public official to discriminate against any person in any manner, including but not limited to, licensing, hiring, promotion, transfer, staff appointment, hospital, managed care entity, or any other privileges, because of such person's conscientious refusal to receive, obtain, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care services contrary to his or her conscience.

70/6. Duty of physicians and other health care personnel

§ 6. Duty of physicians and other health care personnel. Nothing in this Act shall relieve a physician from any duty, which may exist under any laws concerning current standards, of normal medical practices and procedures, to inform his or her patient of the patient's condition, prognosis and risks, provided, however, that such physician shall be under no duty to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of medical practice or health care service that is contrary to his or her conscience.

Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.

70/7. Discrimination by employers or institutions

§ 7. Discrimination by employers or institutions. It shall be unlawful for any public or private employer, entity, agency, institution, official or person, including but not limited to, a medical, nursing or other medical training institution, to deny admission because of, to place any reference in its application form concerning, to orally question about, to impose any burdens in terms or conditions of employment on, or to otherwise discriminate against, any applicant, in terms of employment, admission to or participation in any programs for which the applicant is eligible, or to discriminate in relation thereto, in any other manner, on account of the applicant's refusal to receive, obtain, accept, perform, counsel, suggest, recommend, refer, assist or participate in any way in any forms of health care services contrary to his or her conscience.

70/8. Denial of aid or benefits

§ 8. Denial of aid or benefits. It shall be unlawful for any public official, guardian, agency, institution or entity to deny any form of aid, assistance or benefits, or to condition the reception in any way of any form of aid, assistance or benefits, or in any other manner to coerce, disqualify or discriminate against any person, otherwise entitled to such

aid, assistance or benefits, because that person refuses to obtain, receive, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of health care services contrary to his or her conscience.

70/9. Liability

§ 9. Liability. No person, association, or corporation, which owns, operates, supervises, or manages a health care facility shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care facility to permit or provide any particular form of health care service which violates the facility's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

Nothing in this act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.

70/10. Discrimination against facility

§ 10. Discrimination against facility. It shall be unlawful for any person, public or private institution or public official to discriminate against any person, association or corporation attempting to establish a new health care facility or operating an existing health care facility, in any manner, including but not limited to, denial, deprivation or disqualification in licensing, granting of authorizations, aids, assistance, benefits, medical staff or any other privileges, and granting authorization to expand, improve, or create any health care facility, by reason of the refusal of such person, association or corporation planning, proposing or operating a health care facility, to permit or perform any particular form of health care service which violates the health care facility's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

70/11. Denial of aid or benefit to a facility

§ 11. Denial of aid or benefit to a facility. It shall be unlawful for any public official, agency, institution or entity to deny any form of aid, assistance, grants or benefits; or in any other manner to coerce, disqualify or discriminate against any person, association or corporation attempting to establish a new health care facility or operating an existing health care facility which otherwise would be entitled to the aid, assistance, grant or benefit because the existing or proposed health care facility refuses to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of health care services contrary to the health care facility's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

70/11.2. Liability of health care payer

§ 11.2. Liability of health care payer. No health care payer and no person, association, or corporation that owns, operates, supervises, or manages a health care payer shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care payer to pay for or arrange for the payment of any particular form of health care services that violate the health care payer's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

70/11.3. Discrimination against health care payer in licensing

§ 11.3. Discrimination against health care payer in licensing. It shall be unlawful for any person, public or private institution, or public official to discriminate against any person, association, or corporation (i) attempting to estab-

lish a new health care payer or (ii) operating an existing health care payer, in any manner, including but not limited to, denial, deprivation, or disqualification in licensing; granting of authorizations, aids, assistance, benefits, or any other privileges; and granting authorization to expand, improve, or create any health care payer, because the person, association, or corporation planning, proposing, or operating a health care payer refuses to pay for or arrange for the payment of any particular form of health care services that violates the health care payer's conscience as documented in the existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations or other governing documents.

70/11.4. Denial of aid or benefits to health care payer for refusal to participate in certain health care

§ 11.4. Denial of aid or benefits to health care payer for refusal to participate in certain health care. It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits; or in any other manner to coerce, disqualify, or discriminate against any person, association, or corporation attempting to establish a new health care payer or operating an existing health care payer that otherwise would be entitled to the aid, assistance, grant, or benefit because the existing or proposed health care payer refuses to pay for, arrange for the payment of, or participate in any way in any form of health care services contrary to the health care payer's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

70/12. Actions; damages

§ 12. Actions; damages. Any person, association, corporation, entity or health care facility injured by any public or private person, association, agency, entity or corporation by reason of any action prohibited by this Act may commence a suit therefor, and shall recover threefold the actual damages, including pain and suffering, sustained by such person, association, corporation, entity or health care facility, the costs of the suit and reasonable attorney's fees; but in no case shall recovery be less than \$2,500 for each violation in addition to costs of the suit and reasonable attorney's fees. These damage remedies shall be cumulative, and not exclusive of other remedies afforded under any other state or federal law.

70/13. Liability for refusal to provide certain health care

§ 13. Liability for refusal to provide certain health care. Nothing in this Act shall be construed as excusing any person, public or private institution, or public official from liability for refusal to permit or provide a particular form of health care service if:

- (a) the person, public or private institution or public official has entered into a contract specifically to provide that particular form of health care service; or
- (b) the person, public or private institution or public official has accepted federal or state funds for the sole purpose of, and specifically conditioned upon, permitting or providing that particular form of health care service.

70/14. Supersedes other Acts

§ 14. Supersedes other Acts. This Act shall supersede all other Acts or parts of Acts to the extent that any Acts or parts of Acts are inconsistent with the terms or operation of this Act.

END OF DOCUMENT



1 of 40 DOCUMENTS

LOUISIANA STATUTES ANNOTATED
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*** ANNOTATIONS ARE CURRENT THROUGH JANUARY 11, 2011 ***

LOUISIANA REVISED STATUTES
TITLE 40. PUBLIC HEALTH AND SAFETY
CHAPTER 5. MISCELLANEOUS HEALTH PROVISIONS
PART 18. ABORTION

GO TO LOUISIANA STATUTES ARCHIVE DIRECTORY

La. R.S. 40:1299.35.9 (2011)

§ 40:1299.35.9. Conscience in health care protection; definitions

A. (1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

(2) This Section shall not prevent an inquiry by an employer or patient regarding whether a person declines to participate in any health care service that violates its conscience. When a patient requests health care services, a person shall identify, in writing, as soon as practicable, his declination to provide a service in accordance with the provisions of this Section. All persons who have a sincerely held religious belief or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of any sincerely held religious belief or moral conviction. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the health care facility has sufficient staff to provide patient care in the event an employee declines to participate in any health care service that violates his conscience.

(3) The provisions of this Section shall not be construed to relieve any health care provider from providing emergency care as required by state or federal law.

(4) A person shall notify his employer in writing as soon as practicable of any health care service that violates his conscience. A person shall notify any patient before such person provides any consultation or service to the patient of the existence of a health care service that he will decline to provide because the health care service violates his conscience.

B. For purposes of this Section:

(1) "Conscience" means sincerely held religious belief or moral conviction.

(2) "Health care service" is limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

C. A suit alleging a violation of this Section shall be brought in a district court in accordance with *R.S. 23:303*.

NOTES:

LexisNexis 50 State Surveys, Legislation & Regulations

Abortion

HISTORY: Acts 2009, No. 372, § 1, eff. Aug. 15, 2009.



1 of 1 DOCUMENT

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*** Current through the 2010 2nd Extraordinary Session ***
*** State Court Annotations current through April 15, 2010 ***

TITLE 41. PUBLIC HEALTH
CHAPTER 107. HEALTH CARE RIGHTS OF CONSCIENCE

GO TO MISSISSIPPI STATUTES ARCHIVE DIRECTORY

Miss. Code Ann. § 41-107-5 (2010)

§ 41-107-5. Rights of Conscience of Health-Care Providers

(1) *Rights of Conscience.* A health-care provider has the right not to participate, and no health-care provider shall be required to participate in a health-care service that violates his or her conscience. However, this subsection does not allow a health-care provider to refuse to participate in a health-care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) *Immunity from Liability.* No health-care provider shall be civilly, criminally, or administratively liable for declining to participate in a health-care service that violates his or her conscience. However, this subsection does not exempt a health-care provider from liability for refusing to participate in a health-care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) *Discrimination.* It shall be unlawful for any person, health-care provider, health-care institution, public or private institution, public official, or any board which certifies competency in medical specialties to discriminate against any health-care provider in any manner based on his or her declining to participate in a health-care service that violates his or her conscience. For purposes of this chapter, discrimination includes, but is not limited to: termination, transfer, refusal of staff privileges, refusal of board certification, adverse administrative action, demotion, loss of career specialty, reassignment to a different shift, reduction of wages or benefits, refusal to award any grant, contract, or other program, refusal to provide residency training opportunities, or any other penalty, disciplinary or retaliatory action.

HISTORY: SOURCES: Laws, 2004, ch. 568, § 3, eff from and after July 1, 2004.

NOTES: JOINT LEGISLATIVE COMMITTEE NOTE. --Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (3). "This chapter" was substituted for "this act" following "Purposes of" in the second sentence.

LEGISLATIVE RESEARCH REPORT

MARCH 2, 2011



REPORT NUMBER 11.190

STATE CONSCIENCE LAWS FOR HEALTHCARE PROVIDERS

PREPARED FOR SENATOR BETTYE DAVIS

BY TIM SPENGLER, LEGISLATIVE ANALYST

You asked for information on state laws pertaining to “protection of conscience” for health care providers. Additionally, you wanted copies of relevant statutes.

Briefly, 47 states—including Alaska—have enacted, to varying degrees, protection of conscience laws; these provisions allow providers of health care and certain institutions to refuse to provide, or participate in, medical services that go against an individual’s conscience or the religious affiliation of the hospital.¹ The provisions often relate to issues regarding reproduction, especially abortion and contraception.

Proponents of conscience laws assert that without such measures health care providers may be forced to choose between providing medical services that go against their deeply held moral or religious beliefs and declining to do so with the possibility of losing their jobs. Opponents of such laws believe providers and hospitals have a duty to supply patients with their legal medical options, regardless of the moral standpoints of individuals or institutions. Opponents typically see conscience laws as an attempt to limit reproductive rights.

Alaska Statute

Alaska has enacted one provision in statute that pertains to protection of conscience. Alaska Statute 18.16.010(b) reads as follow:

Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

¹ Hospitals that invoke protection of conscience provisions are often affiliated with Catholic or other religious denominations. According to our review, nearly 20 percent of hospitals in the United States are religiously affiliated.

Laws in Other States

As we mentioned, 47 states (all except Alabama, New Hampshire and Vermont) have protection of conscience laws.² The statutory language and scope of such laws differ from state to state. We identified information on these laws from a number of sources including the Protection of Conscience Project (POCP) and the Guttmacher Institute.³ Despite their differing standpoints on the issue (POCP advocates for conscience laws while Guttmacher has a more skeptical view of such laws), the information we gleaned on state laws from both of these entities was largely consistent.

Some of the highlights from state laws regarding protection of conscience are as follows:

- 47 states permit individual health care providers to abstain from providing abortions;
- 45 states allow health care institutions to refuse to provide abortions; 15 limit the exemption to private health care institutions;
- 9 states allow individual health care providers to refuse to provide services related to contraception; and
- 17 states allow individual health care providers to refuse to provide sterilization services while 16 states allow health care institutions to refuse to provide these services (four limit the exemption to private entities).

We include, as Attachment A, a February 2011 document from the Guttmacher Institute, which includes a table that disaggregates state conscience laws regarding abortion, contraception and sterilization.⁴

We also include, as Attachment B, statutes from 47 states that pertain to protection of conscience for health care workers. As we mentioned above, the great majority of these provisions relate to abortion. We made every attempt to ensure that the list of state laws in Attachment B is comprehensive, accurate, and up-to-date; however, it is possible that relevant provisions may have eluded us.

We identified four states (Idaho, Illinois, Louisiana, and Mississippi) that have enacted *general* (not specific to abortion or another particular medical procedure) protection of conscience laws for healthcare providers. According to Sean Murphy, administrator of the Protection of Conscience Project, conscience provisions that are broadly worded (as in these states) are preferable to more narrowly articulated statutes. He asserts that as new medical procedures can arise at any time, attempting to enumerate all potential issues of conscience for healthcare professionals in statute is impractical.⁵

²Even in the states without such provisions, an individual health care professional's actions may be legally protected by statutes prohibiting discrimination against employees based on religious objections. At the federal level, health care institutions and providers may refuse to participate in abortion services on the basis of their religious or moral beliefs under 42 USC § 300a-7(b).

³The Protection of Conscience Project is a Canadian-based organization that works to ensure that people are not forced to facilitate practices or procedures to which they object for reasons of conscience. These practices include abortion, capital punishment, contraception, sterilization, artificial reproduction, euthanasia, assisted suicide, human experimentation, and torture (<http://www.consciencelaws.org/>). The Guttmacher Institute works to advance sexual and reproductive health in the U.S. and worldwide through an interrelated program of social science research, policy analysis, and education (<http://www.guttmacher.org/>).

⁴The only inaccuracy we found in this document is the absence of a West Virginia law (§16-2F-7) that allows providers to refuse to participate in abortions.

⁵Sean Murphy can be reached at (604) 485-9765.

Below we provide excerpts of generally-worded statutes from Idaho, Illinois, Louisiana, and Mississippi regarding protection of conscience for healthcare providers.

Idaho (IC 18-611):

IC 18-611(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

IC 18-611(4) No health care professional or employer of the health care professional shall be civilly, criminally or administratively liable for the health care professional declining to provide health care services that violate his or her conscience, except for life threatening situations as provided for in subsection (6) of this section.

Illinois (745 ILCS 70/1, Sec. 4):

No physician or health care personnel shall be civilly or criminally liable to any person, estate, public or private entity or public official by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health care personnel.

Louisiana (La. Rev. Stat. Ann. tit. 40, § 1299.35.9):

A. (1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

Mississippi (MC § 41-107-5):

(1) Rights of Conscience. A health care provider has the right not to participate, and no health care provider shall be required to participate in a health care service that violates his or her conscience. However, this subsection does not allow a health care provider to refuse to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

We hope you find this information to be useful. Please let us know if you have questions or need additional information.

Attachment A

"Refusing to Provide Health Services," Guttmacher Institute, February 1, 2011

Refusing to Provide Health Services

BACKGROUND: Almost every state has a policy explicitly allowing some health care professionals or certain institutions to refuse to provide or participate in abortion, contraceptive services or sterilization services. Even in states without explicit refusal statutes, an individual health care professional's actions may be legally protected by statutes prohibiting discrimination against employees, based on their religious objections. While some of the institutional policies are limited to private, or even religious, health care institutions, others apply to all institutions providing health care. (At the federal level, health care institutions and providers may refuse to participate in abortion services on the basis of their religious or moral beliefs.)

A few states have enacted laws that specifically allow pharmacists or pharmacies to refuse to provide health care due to religious or moral objections. Several other states have broadly worded refusal clause statutes that might protect pharmacists or pharmacies from liability for their refusal. (See [Emergency Contraception](#).)

HIGHLIGHTS:

- 46 states allow some health care providers to refuse to provide abortion services.
 - All of these states permit individual health care providers to refuse to provide abortion services.
 - 45 states allow health care institutions to refuse to provide abortion services, 15 limit the exemption to private health care institutions and 1 state allows only religious health care entities to refuse to provide such care.

- 14 states allow some health care providers to refuse to provide services related to contraception.
 - 9 states allow individual health care providers to refuse to provide services related to contraception
 - 5 states explicitly permit pharmacists to refuse to dispense contraceptives. (5 additional states have broad refusal clauses that do not specifically include pharmacists, but may apply to them.)
 - 1 state explicitly permits pharmacies to refuse to dispense contraceptives.
 - 4 states have broad refusal clauses that do not specifically include pharmacies, but may apply to them.
 - 9 states allow health care institutions to refuse to provide services related to contraception, 6 states limit the exemption to private entities.

- 18 states allow some health care providers to refuse to provide sterilization services.
 - 17 states allow individual health care providers to refuse to provide sterilization services.
 - 16 states allow health care institutions to refuse to provide sterilization services; 4 limit the exemption to private entities.



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CONTINUED

POLICIES ALLOWING PROVIDERS TO REFUSE

STATE	ABORTION		CONTRACEPTION				STERILIZATION	
	Individual Providers	Institutions	Individual Providers	Pharmacists	Pharmacies	Institutions	Individual Providers	Institutions
Alaska	X	Private						
Arizona	X ^ψ	X ^ψ	§	§	§	§		
Arkansas	X	X	X	X	*	Private	X	X
California	X	Religious		†				
Colorado	X	X	X	*	*	Private		
Connecticut	X							
Delaware	X	X						
Florida	X	X	X	*				
Georgia	X	X		X			X	X
Hawaii	X	X						
Idaho	X	X	X	X			X	X
Illinois	X	Private	X	*	‡	X	X	X
Indiana	X	Private						
Iowa	X	Private						
Kansas	X	X					X	X
Kentucky	X	X					X	
Louisiana	X	X						
Maine	X	X	X	*	*	Private	X	X
Maryland	X	X					X	X
Massachusetts	X	Private				Private	X	Private
Michigan	X	X						
Minnesota	X	Private						
Mississippi	X	X	X	X	X	X	X	X
Missouri	X	X						
Montana	X	Private					X	Private
Nebraska	X	X						
Nevada	X	Private						
New Jersey	X	Private			‡	Private	X	Private
New Mexico	X	X						X
New York	X	X						
North Carolina	X	X						
North Dakota	X	X						
Ohio	X	X						
Oklahoma	X	X						
Oregon	X	Private						
Pennsylvania	X	Private					X	Private
Rhode Island	X	X					X	
South Carolina	X	Private						
South Dakota	X	X		X				
Tennessee	X	X	X	*	*	Private		
Texas	X	Private						
Utah	X	Private						
Virginia	X	X						
Washington	X	X	X		‡	X	X	X
West Virginia							X	X
Wisconsin	X	X			Ω		X	X
Wyoming	X	Private						
TOTAL	46	45	9	5	1	9	17	16

Note: Unless indicated, the right to refuse applies to all institutions— private, religious and public.

§ Temporarily enjoined; law not in effect pending the outcome of litigation.

ψ An expansion of the state's abortion refusal clause is temporarily enjoined pending the outcome of litigation; the prior law is in effect.

* A broadly worded refusal clause may apply.

† Pharmacists have a duty to dispense valid prescriptions and can only refuse to dispense a prescription, including contraceptives, when their employers approves the refusal and the woman can still access her prescription in a timely manner.

‡ Pharmacies are required to dispense valid prescriptions and in Illinois and Washington deliver FDA-approved drugs, such as emergency contraception.

Ω State law requires pharmacies to fill valid contraceptive prescriptions.

FOR MORE INFORMATION:

For information on state legislative and policy activity, click on Guttmacher's [Monthly State Update](#), and for state-level information and data on reproductive health issues, click on Guttmacher's [State Center](#). To see state-specific abortion information, click on [State Facts About Abortion](#) and Guttmacher's [Data Center](#).

Sonfield A, [Delineating the obligations that come with conscientious refusal: a question of balance](#). *Guttmacher Policy Review*, 2009, 12(3):6–10.

Sonfield A, [Proposed 'conscience' regulation opposed widely as threat to reproductive health and beyond](#). *Guttmacher Policy Review*, 2008, 11(4):17–19.

Sonfield A, [Provider refusal and access to reproductive health services: approaching a new balance](#). *Guttmacher Policy Review*, 2008, 11(2):2–6.

Guttmacher Institute, [Striking a balance between a provider's right to refuse and a patient's right to receive care](#). 2005.

Dailard C, [Beyond the issue of pharmacist refusals: pharmacies that won't sell emergency contraceptives](#). *The Guttmacher Report on Public Policy*, 2005, 8(3):10–12.

Sonfield A, [Rights vs. responsibilities: professional standards and provider refusals](#). *The Guttmacher Report on Public Policy*, 2005, 8(3):7–9.

Sonfield A, [New refusal clauses shatter balance between provider 'conscience,' patient needs](#). *The Guttmacher Report on Public Policy*, 2004, 7(3):1–3.

Gold RB, [Future uncertain for Catholic plans' creative approaches to providing contraceptive access](#). *The Guttmacher Report on Public Policy*, 2000, 3(6):1–2 & 14.

Gold RB and Sonfield A, [Refusing to participate in health care: a continuing debate](#). *The Guttmacher Report on Public Policy*, 2000, 3(1):8–11.

Dailard C, [State contraceptive coverage laws: creative responses to questions of 'conscience'](#). *The Guttmacher Report on Public Policy*, 1999, 2(4):1–2 & 14.

Cohen SA, [Objections, confusion among pharmacists threaten access to emergency contraception](#). *The Guttmacher Report on Public Policy*, 1999, 2(3):1–3.

Gold RB, [Contraceptive coverage: toward ensuring access while respecting conscience](#). *The Guttmacher Report on Public Policy*, 1998, 1(6):1–2 & 14.

Donovan P, [When plans opt out: family planning access in Medicaid managed care](#). *The Guttmacher Report on Public Policy*, 1998, 1(4):8–11.

Gold RB, [Conscience makes a comeback in the age of managed care](#). *The Guttmacher Report on Public Policy*, 1998, 1(1):1–2.

Attachment B

State statutes (47 states) regarding “protection of conscience” for health care providers.

Alaska

AS 18.16. Regulation of Abortions

(b) Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

Arizona

36-2151 . Right to refuse to participate in abortion

No hospital is required to admit any patient for the purpose of performing an abortion. A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital, doctor, clinic, or other medical or surgical facility in which an abortion has been authorized, who shall state in writing an objection to such abortion on moral or religious grounds shall not be required to participate in the medical or surgical procedures which will result in the abortion.

36-3205 . Health care providers; immunity from liability; conditions

C. A health care provider is not subject to criminal or civil liability or professional discipline for any of the following:

1. Failing to comply with a decision or a direction that violates the provider's conscience if the provider promptly makes known the provider's unwillingness and promptly transfers the responsibility for the patient's care to another provider who is willing to act in accordance with the agent's direction.

Arkansas

20-16-304. Public policy – Availability of Procedures, Supplies, and Information –Exceptions.

(5) No private institution or physician, nor any agent or employee of such institution or physician, nor any employee of a public institution acting under directions of a physician, shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when the refusal is based upon religious or conscientious objection. No such institution, employee, agent, or physician shall be held liable for the refusal.

History. Acts 1973, No.235, §4.

§ 20-16-601. Refusal to perform, participate, consent, or submit

(a) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy. The refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other recriminatory action against him.

(b) No hospital, hospital director, or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit the procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against it by the state or any person.

(c) The refusal of any person to submit to an abortion or to give consent for an abortion shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall submission to an

abortion or the granting of consent for an abortion be a condition precedent to the receipt of any public benefits. History. Acts 1969, No. 61, § 8; A.S.A. 1947, § 41-2560.

California

California Health and Safety Code

Section 123400-123450 Therapeutic Abortion Act.

123400. This article shall be known and may be cited as the Therapeutic Abortion Act.

123420. (a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility, or clinic to directly participate in the induction or performance of an abortion, if the employee or other person has filed a written statement with the employer or the hospital, facility, or clinic indicating a moral, ethical, or religious basis for refusal to participate in the abortion.

No such employee or person with staff privileges in a hospital, facility, or clinic shall be subject to any penalty or discipline by reason of his or her refusal to participate in an abortion.

No such employee of a hospital, facility, or clinic that does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of the person's participation in the performance of an abortion in other than the hospital, facility, or clinic.

No employer shall refuse to employ any person because of the person's refusal for moral, ethical, or religious reasons to participate in an abortion, unless the person would be assigned in the normal course of business of any hospital, facility, or clinic to work in those parts of the hospital, facility, or clinic where abortion patients are cared for.

No provision of this article prohibits any hospital, facility, or clinic that permits the performance of abortions from inquiring whether an employee or prospective employee would advance a moral, ethical, or religious basis for refusal to participate in an abortion before hiring or assigning that person to that part of a hospital, facility, or clinic where abortion patients are cared for.

The refusal of a physician, nurse, or any other person to participate or aid in the induction or performance of an abortion pursuant to this subdivision shall not form the basis of any claim for damages.

(b) No medical school or other facility for the education or training of physicians, nurses, or other medical personnel shall refuse admission to a person or penalize the person in any way because of the person's unwillingness to participate in the performance of an abortion for moral, ethical, or religious reasons.

No hospital, facility, or clinic shall refuse staff privileges to a physician because of the physician's refusal to participate in the performance of abortion for moral, ethical, or religious reasons.

(c) Nothing in this article shall require a nonprofit hospital or other facility or clinic that is organized or operated by a religious corporation or other religious organization and licensed pursuant to Chapter 1 (commencing with

Section 1200) or Chapter 2 (commencing with Section 1250) of Division 2, or any administrative officer, employee, agent, or member of the governing board thereof, to perform or to permit the performance of an abortion in the facility or clinic or to provide abortion services.

No such nonprofit facility or clinic organized or operated by a religious corporation or other religious organization, nor its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act. The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic that does not permit the performance of abortions on its premises shall post notice of that proscription in an area of the facility or clinic that is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions. Any violation of this section is a misdemeanor.

Colorado

18-6-104 - Failure to comply.

Nothing in sections 18-6-101 to 18-6-104 requires a hospital to admit any patient under said sections for the purposes of performing an abortion, nor is any hospital required to appoint a special hospital board as defined in section 18-6-101 (4). A person who is a member of or associated with the staff of a hospital or any employee of a hospital in which a justified medical termination has been authorized and who states in writing an objection to the termination on moral or religious grounds is not required to participate in the medical procedures which result in the termination of a pregnancy, and the refusal of any such person to participate does not form the basis for any disciplinary or other recriminatory action against the person.

25-3-110

(2) Notwithstanding any other provision of law to the contrary, all health care facilities that are licensed pursuant to this Part I and provide emergency care to sexual assault survivors shall amend their evidence collection protocols for the treatment of sexual assault survivors to include informing the survivor in a timely manner of the availability of emergency contraception as a means of pregnancy prophylaxis and educating the survivor on the proper use of emergency contraception and the appropriate follow-up care.

(3) Nothing in this section shall be interpreted to require:

(a) a health care professional who is employed by a health care facility that provides emergency care to a sexual assault survivor to inform the survivor of the availability of emergency contraception if the professional refuses to provide the information on the basis of religious or moral beliefs; or

(b) a health care facility to provide emergency contraception to a sexual assault survivor who is not at risk of becoming pregnant as a result of the sexual assault or who was already pregnant at the time of the assault.

(4) If any licensed pharmacy does not have non-prescription emergency contraception in stock, the pharmacy shall place a conspicuous notice in the area where customers obtain prescription drugs that states "Plan B emergency contraception not available."

25-6-102. Policy, authority, and prohibitions against restrictions.

(9) No private institution or physician, nor any agent or employee of such institution or physician, shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when such refusal is based upon religious or conscientious objection, and no such institution, employee, agent, or physician shall be held liable for such refusal.

Connecticut

Sec. 19-13-D54. Abortions (f) No person shall be required to participate in any phase of an abortion that violates his or her judgment, philosophical, moral or religious beliefs . .

Delaware

§ 1791. Refusal to perform or submit to medical procedures.

(a) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy; and the refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person, nor a basis for any disciplinary or other recriminatory action against the person.

(b) No hospital, hospital director or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit such procedures shall not be grounds for civil liability to any person, nor a basis for any disciplinary or other recriminatory action against it by the State or any person.

(c) The refusal of any person to submit to an abortion or to give consent shall not be grounds for loss of any privileges or immunities to which such person would otherwise be entitled, nor shall submission to an abortion or the granting of consent be a condition precedent to the receipt of any public benefits.

(24 Del. C. 1953, § 1791; 57 Del. Laws, c. 145, § 2; 70 Del. Laws, c. 186, § 1.)

Florida

381.0051 Family planning

(6) Refusal for Religious or Medical Reasons.

--The provisions of this section shall not be interpreted so as to prevent a physician or other person from refusing to furnish any contraceptive or family planning service, supplies, or information for medical or religious reasons; and the physician or other person shall not be held liable for such refusal.

Chapter 390 Termination of Pregnancies

390.0111 Termination of pregnancies.--

(8) Refusal to participate in termination procedure

Nothing in this section shall require any hospital or any person to participate in the termination of a pregnancy, nor shall any hospital or any person be liable for such refusal. No person who is a member of, or associated with, the staff of a hospital, nor any employee of a hospital or physician in which or by whom the termination of a pregnancy has been authorized or performed, who shall state an objection to such procedure on moral or religious grounds shall be required to participate in the procedure which will result in the termination of pregnancy. The refusal of any such person or employee to participate shall not form the basis for any disciplinary or other recriminatory action against such person. \

Georgia

Official Code 16-12-142G

Nothing in this article shall require a hospital or other medical facility or physician to admit any patient under the provisions of this article for the purpose of performing an abortion. In addition, any person who states in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion; and the refusal of the person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person. The written objection shall remain in effect until the person revokes it or terminates his association with the facility with which it is filed.

Official Code 49-7-5.

The refusal of any person to accept family-planning services shall in no way affect the right of such person to receive public assistance or public health services or to avail himself of any other public benefit. The employees of the agencies engaged in the administration of this chapter shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual; and nothing in this chapter shall in any way abridge such individual right, nor shall any individual be required to state his reason for refusing the offer of family-planning services.

Official Code 49-7-6.

Any employee of the agencies engaged in the administration of this chapter may refuse to accept the duty of offering family-planning services to the extent that such duty is contrary to such employee's personal religious beliefs; and such refusal shall not be grounds for any disciplinary action, for dismissal, for any interdepartmental transfer, for any other discrimination in his employment, for suspension from employment, or for any loss in pay or other benefits. The directors or supervisors of such agencies shall be authorized, however, to reassign the duties of any such employees in order to carry out this chapter effectively.

Hawaii

[§453-16]

(d) Nothing in this section shall require any hospital or any person to participate in such abortion nor shall any hospital or any person be liable for such refusal. [L 1970, c 1, §2]

Idaho

5-334. Act or Omission Preventing Abortion Not Actionable

(1) A cause of action shall not arise, and damages shall not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

(2) The provisions of this section shall not preclude causes of action based on claims that, but for a wrongful act or omission, fertilization would not have occurred, maternal death would not have occurred or handicap, disease, defect or deficiency of an individual prior to birth would have been prevented, cured or ameliorated in a manner that preserved the health and life of the affected individual.

18-611. Freedom of Conscience for Health Care Professionals

(1) As used in this section:

(a) "Abortifacient" means any drug that causes an abortion as defined in 18-604, Idaho Code, emergency contraception or any drug the primary purpose of which is to cause the destruction of an embryo or fetus.

(b) "Conscience" means the religious, moral or ethical principles sincerely held by any person.

(c) "Embryo" means the developing human life from fertilization until the end of the eighth week of gestation.

(d) "Fetus" means the developing human life from the start of the ninth week of gestation until birth.

(e) "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.

(f) "Health care service" means an abortion, dispensation of an abortifacient drug, human embryonic stem cell research, treatment regimens utilizing human embryonic stem cells, human embryo cloning or end of life treatment and care.

(g) "Provide" means to counsel, advise, perform, dispense, assist in or refer for any health care service.

(h) "Religious, moral or ethical principles," "sincerely held," "reasonably accommodate" and "undue hardship" shall be construed consistently with Title VII of the federal civil rights act of 1964, as amended.

(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

(3) Employers of health care professionals shall reasonably accommodate the conscience rights of their employees as provided in this section, upon advanced written notification by the employee. Such notice shall suffice without specification of the reason therefor. It shall be unlawful for any employer to discriminate against any health care professional based upon his or her declining to provide a health care service that violates his or her conscience, unless the employer can demonstrate that such accommodation poses an undue hardship.

(4) No health care professional or employer of the health care professional shall be civilly, criminally or administratively liable for the health care professional declining to provide health care services that violate his or her conscience, except for lifethreatening situations as provided for in subsection (6) of this section.

(5) The provisions of this section do not allow a health care professional or employer of the health care professional to refuse to provide health care services because of a patient's race, color, religion, sex, age, disability or national origin.

(6) If a health care professional invokes a conscience right in a lifethreatening situation where no other health care professional capable of treating the emergency is available, such health care professional shall provide treatment and care until an alternate health care professional capable of treating the emergency is found.

(7) Nothing in this section shall affect the rights of conscience provided for in section 18-612, Idaho Code, to the extent that those rights are broader in scope than those provided for in this section.

18-612. Refusal to Perform Abortions- - Physicians and Hospitals Not Liable [Effective contingent on Governor's Proclamation]

Nothing in this act shall be deemed to require any hospital to furnish facilities or admit any patient for any abortion if, upon determination by its governing board, it elects not to do so. Neither shall any physician be required to perform or assist in any abortion, nor shall any nurse, technician or other employee of any physician or hospital be required by law or otherwise to assist or participate in the performance or provision of any abortion if he or she, for personal, moral or religious reasons, objects thereto. Any such person in the employ or under the control of a hospital shall be deemed to have sufficiently objected to participation in such procedures only if he or she has advised such hospital in writing that he or she generally or specifically objects to assisting or otherwise participating in such procedures. Such notice will suffice without specification of the reason therefor. No refusal to accept a patient for abortion or to perform, assist or participate in any such abortion as herein provided shall form the basis of any claim for damages or recriminatory action against the declining person, agency or institution.

Illinois

745 ILCS 30/0.01 Abortion Performance Refusal Act

Sec. 0.01. Short title.

This Act may be cited as the Abortion Performance Refusal Act. (Source: P.A. 86-1324.) (745 ILCS 30/1)

Sec. 1.

(a) No physician, nurse or other person who refuses to recommend, perform or assist in the performance of an abortion, whether such abortion be a crime or not, shall be liable to any person for damages allegedly arising from such refusal.

(b) No hospital that refuses to permit the performance of an abortion upon its premises, whether such

abortion be a crime or not, shall be liable to any person for damages allegedly arising from such refusal.

(c) Any person, association, partnership or corporation that discriminates against another person in any way, including, but not limited to, hiring, promotion, advancement, transfer, licensing, granting of hospital privileges, or staff appointments, because of that person's refusal to recommend, perform or assist in the performance of an abortion, whether such abortion be a crime or not, shall be answerable in civil damages equal to 3 times the amount of proved damages, but in no case less than \$2,000.

(d) The license of any hospital, doctor, nurse or any other medical personnel shall not be revoked or suspended because of a refusal to permit, recommend, perform or assist in the performance of an abortion. (Source: P. A. 78-228.)

745 ILCS 70/1 Health Care Right of Conscience Act.

Sec. 1. Short title.

This Act may be cited as the Health Care Right of Conscience Act. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/2)

Sec. 2. Findings and policy.

The General Assembly finds and declares that people and organizations hold different beliefs about whether certain health care services are morally acceptable. It is the public policy of the State of Illinois to respect and protect the right of conscience of all persons who refuse to obtain, receive or accept, or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/3)

Sec. 3. Definitions.

As used in this Act, unless the context clearly otherwise requires:

(a) **"Health care"** means any phase of patient care, including but not limited to, testing; diagnosis; prognosis; ancillary research; instructions; family planning, counselling, referrals, or any other advice in connection with the use or procurement of contraceptives and sterilization or abortion procedures; medication; or surgery or other care or treatment rendered by a physician or physicians, nurses, paraprofessionals or health care facility, intended for the physical, emotional, and mental well-being of persons;

(b) **"Physician"** means any person who is licensed by the State of Illinois under the Medical Practice Act of 1987;

(c) **"Health care personnel"** means any nurse, nurses' aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services;

(d) **"Health care facility"** means any public or private hospital, clinic, center, medical school, medical training institution, laboratory or diagnostic facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center or other institution or location wherein health care services are provided to any person, including physician organizations and associations, networks, joint ventures, and all other combinations of those organizations;

(e) "**Conscience**" means a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths; and

(f) "**Health care payer**" means a health maintenance organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any health care or medical care service, procedure, or product. The above definitions include not only the traditional combinations and forms of these persons and organizations but also all new and emerging forms and combinations of these persons and organizations. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/4)

Sec. 4. Liability.

No physician or health care personnel shall be civilly or criminally liable to any person, estate, public or private entity or public official by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health care personnel. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/5)

Sec. 5. Discrimination.

It shall be unlawful for any person, public or private institution, or public official to discriminate against any person in any manner, including but not limited to, licensing, hiring, promotion, transfer, staff appointment, hospital, managed care entity, or any other privileges, because of such person's conscientious refusal to receive, obtain, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care services contrary to his or her conscience. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/6)

Sec. 6. Duty of physicians and other health care personnel. Nothing in this Act shall relieve a physician from any duty, which may exist under any laws concerning current standards, of normal medical practices and procedures, to inform his or her patient of the patient's condition, prognosis and risks, provided, however, that such physician shall be under no duty to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of medical practice or health care service that is contrary to his or her conscience. Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/7)

Sec. 7. Discrimination by employers or institutions.

It shall be unlawful for any public or private employer, entity, agency, institution, official or person, including but not limited to, a medical, nursing or other medical training institution, to deny admission because of, to place any reference in its application form concerning, to orally question about, to impose any burdens in terms or conditions of employment on, or to otherwise discriminate against, any applicant, in terms of employment, admission to or participation in any programs for which the applicant is eligible, or to discriminate in relation thereto, in any other manner, on account of the applicant's refusal to receive, obtain, accept, perform, counsel, suggest, recommend, refer, assist or participate in any way in any forms of health care services contrary to his or her conscience. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/8)

Sec. 8. Denial of aid or benefits.

It shall be unlawful for any public official, guardian, agency, institution or entity to deny any form of aid, assistance or benefits, or to condition the reception in any way of any form of aid, assistance or benefits, or in any other manner to coerce, disqualify or discriminate against any person, otherwise entitled to such aid, assistance or benefits, because that person refuses to obtain, receive, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of health care services contrary to his or her conscience. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/9)

Sec. 9. Liability.

No person, association, or corporation, which owns, operates, supervises, or manages a health care facility shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care facility to permit or provide any particular form of health care service which violates the facility's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents. Nothing in this act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/10)

Sec. 10. Discrimination against facility.

It shall be unlawful for any person, public or private institution or public official to discriminate against any person, association or corporation attempting to establish a new health care facility or operating an existing health care facility, in any manner, including but not limited to, denial, deprivation or disqualification in licensing, granting of authorizations, aids, assistance, benefits, medical staff or any other privileges, and granting authorization to expand, improve, or create any health care facility, by reason of the refusal of such person, association or corporation planning, proposing or operating a health care facility, to permit or perform any particular form of health care service which violates the health care facility's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/11)

Sec. 11. Denial of aid or benefit to a facility.

It shall be unlawful for any public official, agency, institution or entity to deny any form of aid, assistance, grants or benefits; or in any other manner to coerce, disqualify or discriminate against any person, association or corporation attempting to establish a new health care facility or operating an existing health care facility which otherwise would be entitled to the aid, assistance, grant or benefit because the existing or proposed health care facility refuses to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of health care services contrary to the health care facility's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/11.2)

Sec. 11.2. Liability of health care payer.

No health care payer and no person, association, or corporation that owns, operates, supervises, or manages a health care payer shall be civilly or criminally liable to any person, estate, or public or private entity by reason of

refusal of the health care payer to pay for or arrange for the payment of any particular form of health care services that violate the health care payer's conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/11.3)

Sec. 11.3. Discrimination against health care payer in licensing.

It shall be unlawful for any person, public or private institution, or public official to discriminate against any person, association, or corporation

(i) attempting to establish a new health care payer or

(ii) operating an existing health care payer, in any manner, including but not limited to, denial, deprivation, or disqualification in licensing; granting of authorizations, aids, assistance, benefits, or any other privileges; and granting authorization to expand, improve, or create any health care payer, because the person, association, or corporation planning, proposing, or operating a health care payer refuses to pay for or arrange for the payment of any particular form of health care services that violates the health care payer's conscience as documented in the existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations or other governing documents. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/11.4)

Sec. 11.4. Denial of aid or benefits to health care payer for refusal to participate in certain health care.

It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits; or in any other manner to coerce, disqualify, or discriminate against any person, association, or corporation attempting to establish a new health care payer or operating an existing health care payer that otherwise would be entitled to the aid, assistance, grant, or benefit because the existing or proposed health care payer refuses to pay for, arrange for the payment of, or participate in any way in any form of health care services contrary to the health care payer's conscience as documented in its existing or proposed ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/12)

Sec. 12. Actions; damages.

Any person, association, corporation, entity or health care facility injured by any public or private person, association, agency, entity or corporation by reason of any action prohibited by this Act may commence a suit therefor, and shall recover threefold the actual damages, including pain and suffering, sustained by such person, association, corporation, entity or health care facility, the costs of the suit and reasonable attorney's fees; but in no case shall recovery be less than \$2,500 for each violation in addition to costs of the suit and reasonable attorney's fees. These damage remedies shall be cumulative, and not exclusive of other remedies afforded under any other state or federal law. (Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/13)

Sec. 13. Liability for refusal to provide certain health care.

Nothing in this Act shall be construed as excusing any person, public or private institution, or public official from liability for refusal to permit or provide a particular form of health care service if:

(a) the person, public or private institution or public official has entered into a contract specifically to provide that particular form of health care service; or

(b) the person, public or private institution or public official has accepted federal or state funds for the sole purpose of, and specifically conditioned upon, permitting or providing that particular form of health care service.

(Source: P.A. 90-246, eff. 1-1-98.) (745 ILCS 70/14)

Sec. 14. Supersedes other Acts.

This Act shall supersede all other Acts or parts of Acts to the extent that any Acts or parts of Acts are inconsistent with the terms or operation of this Act. (Source: P.A. 90-246, eff. 1-1-98.)

Indiana

Indiana Code 16-34-1-3

Sec. 3. No private or denominational hospital shall be required to permit its facilities to be utilized for the performance of abortions. As added by P.L.2-1993, SEC.17.

IC16-34-1-4

Sec. 4. No: (1) physician; or (2) employee or member of the staff of a hospital or other facility in which an abortion may be performed; shall be required to perform an abortion or to assist or participate in the medical procedures resulting in or intended to result in an abortion, if that individual objects to such procedures on ethical, moral, or religious grounds. As added by P.L.2-1993, SEC.17.

IC16-34-1-5

Sec. 5. No person shall be required, as a condition of training, employment, pay, promotion, or privileges, to agree to perform or participate in the performing of abortions. As added by P.L.2-1993, SEC.17.

IC16-34-1-6

Sec. 6. No hospital or other person shall discriminate against or discipline a person because of the person's moral beliefs concerning abortion. As added by P.L.2-1993, SEC.17.

IC16-34-1-7

Sec. 7. A civil action for damages or reinstatement of employment, or both, may be brought for any violation of sections 4 through 6 of this chapter.

Iowa

Iowa Code 146.1 Liability of persons relating to performance of abortions.

An individual who may lawfully perform, assist, or participate in medical procedures which will result in an abortion shall not be required against that individual's religious beliefs or moral convictions to perform, assist, or participate in such procedures. A person shall not discriminate against any individual in any way, including but not limited to employment, promotion, advancement, transfer, licensing, education, training or the granting of hospital privileges or staff appointments, because of the individual's participation in or refusal to participate in recommending, performing or assisting in an abortion procedure. For the purposes of this chapter, "abortion" means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus. Abortion does not include medical care which has as its primary purpose the treatment of a serious physical condition requiring emergency medical treatment necessary to save the life of a mother.

146.2 Liability of hospitals refusing to perform abortions.

A hospital, which is not controlled, maintained and supported by a public authority, shall not be required to permit the performance of an abortion. The refusal to permit such procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against the hospital.

Kansas

65-443. Termination of human pregnancy; performance or participation in medical procedures not required.

No person shall be required to perform or participate in medical procedures which result in the termination of a pregnancy, and the refusal of any person to perform or participate in those medical procedures shall not be a basis for civil liability to any person. No hospital, hospital administrator or governing board of any hospital shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any person because of such person's refusal to perform or participate in the termination of any human pregnancy.

History: L. 1969, ch. 182, § 1; L. 1975, ch. 313, § 1; July 1.

Kentucky

Kentucky Revised Statutes 311.800

(3) No private hospital or private health care facility shall be required to, or held liable for refusal to, perform or permit the performance of abortion contrary to its stated ethical policy.

(4) No physician, nurse staff member or employee of a public or private hospital or employee of a public or private health care facility, who shall state in writing to such hospital or health care facility his objection to performing, participating in, or cooperating in, abortion on moral, religious or professional grounds, be required to, or held liable for refusal to, perform, participate in, or cooperate in such abortion.

(5) It shall be an unlawful discriminatory practice for the following:

(a) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to, any hospital or other health care facility due to the refusal of such hospital or health care facility to perform or permit to be performed, participate in, or cooperate in, abortion by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such hospital or health care facility with respect to abortion; or,

(b) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse or staff member or employee of any hospital or health care facility, due to the willingness or refusal of such physician, nurse or staff member or employee to perform or participate in abortion by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such physician, nurse or staff member or employee with respect to abortion; or,

(c) Any public or private agency, institution or person, including a medical, nursing or other school, to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any physician, nurse, staff member, student or employee thereof, on account of the willingness or refusal of such applicant, physician, nurse, staff member, student or employee to perform or participate in abortion or sterilization by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such person with respect to abortion or sterilization if that health care facility is not operated exclusively for the purposes of performing abortions or sterilizations.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 225, sec. 1, effective July 15, 1980. -- Created 1974 Ky. Acts ch. 255, sec. 11.

311.810 Discrimination for refusal to submit to abortion prohibited.

No woman may be denied governmental assistance or be otherwise discriminated against or otherwise subjected to coercion in any way for accepting or refusing to accept or submit to an abortion, which she may do or not do for any reason without explanation. History: Created 1974 Ky. Acts ch. 255, sec. 12.

Louisiana

La. Rev. Stat. Ann. tit. 40, § 1299.31.

No . . . person or corporation shall be held civilly . . . liable, discriminated against, . . . or in any way prejudiced or damaged because of his refusal for any reason to recommend, counsel, perform, assist with or accommodate an abortion.

La. Rev. Stat. Ann. tit. 40, § 1299.32.

No hospital, clinic or other facility or institution of any kind shall be held civilly. . . liable, discriminated against, or in any way prejudiced or damaged because of any refusal to permit or accommodate the performance of any abortion in said facility or under its auspices.

La. Rev. Stat. Ann. tit. 40, § 1299.33.

No hospital, clinic, or other medical or health facility, whether public or private, shall ever be denied governmental assistance or be otherwise discriminated against or otherwise be pressured in any way for refusing to permit its facilities, staff or employees to be used in any way for the purpose of performing any abortion.

La. Rev. Stat. Ann. tit. 40, § 1299.35.9

Conscience in health care protection; definitions

A.(1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

(2) This Section shall not prevent an inquiry by an employer or patient regarding whether a person declines to participate in any health care service that violates its conscience. When a patient requests health care services, a person shall identify, in writing, as soon as practicable, his declination to provide a service in accordance with the provisions of this Section. All persons who have a sincerely held religious belief or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of any sincerely held religious belief or moral conviction. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the health care facility has sufficient staff to provide patient care in the event an employee declines to participate in any health care service that violates his conscience.

(3) The provisions of this Section shall not be construed to relieve any health care provider from providing emergency care as required by state or federal law.

(4) A person shall notify his employer in writing as soon as practicable of any health care service that violates his conscience. A person shall notify any patient before such person provides any consultation or service to the patient of the existence of a health care service that he will decline to provide because the health care service violates his conscience.

B. For purposes of this Section:

(1) "Conscience" means sincerely held religious belief or moral conviction.

(2) "Health care service" is limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

C. A suit alleging a violation of this Section shall be brought in a district court in accordance with R.S. 23:303.

Maine

Maine Revised Statutes

Title 22

Subtitle 2: Health

Part 3: Public Health (Heading: PL 1989, c. 487, @11 (rpr))

Chapter 263-B: Abortions

§ 1591. Immunity and employment protection

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion, and no hospital or health care facility that refuses to permit the performance of an abortion upon its premises, shall be liable to any person, firm, association or corporation for damages allegedly arising from the refusal, nor shall such refusal constitute a basis for any civil liability to any physician, nurse or other person, hospital or health care facility nor a basis for any disciplinary or other recriminatory action against them or any of them by the State or any person. [1977, c. 696, § 186 (new).]

No physician, nurse or other person, who refuses to perform or assist in the performance of an abortion, shall, because of that refusal, be dismissed, suspended, demoted or otherwise prejudiced or damaged by a hospital, health care facility, firm, association, professional association, corporation or educational institution with which he or she is affiliated or requests to be affiliated or by which he or she is employed, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled nor shall submission to an abortion or the granting of consent therefor be a condition precedent to the receipt of any public benefits. [1977, c. 696, § 186 (new).]

§ 1592. Discrimination for refusal

No person, hospital, health care facility, firm, association, corporation or educational institution, directly or indirectly, by himself or another, shall discriminate against any physician, nurse or other person by refusing or withholding employment from or denying admittance, when such physician, nurse or other person refuses to perform, or assist in the performance of an abortion, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled. [1977, c. 696, § 186 (new).]

§1903. Authority and policy

4. Objections. No private institution or physician or no agent or employee of such institution or physician shall be prohibited from refusing to provide family planning services when such refusal is based upon religious or conscientious objection. [1973, c. 624, §1 (NEW)]

Maryland

Maryland Statutes § 20-214. Health - General

(a) (1) A person may not be required to perform or participate in, or refer to any source for, any medical procedure that results in artificial insemination, sterilization, or termination of pregnancy.

(2) The refusal of a person to perform or participate in, or refer to a source for, these medical procedures may not be a basis for:

- (i) Civil liability to another person; or
- (ii) Disciplinary or other recriminatory action against the person.

(b)(1) A licensed hospital, hospital director, or hospital governing board may not be required:

- (i) To permit, within the hospital, the performance of any medical procedure that results in artificial insemination, sterilization, or termination of pregnancy; or
- (ii) To refer to any source for these medical procedures.

(2) The refusal to permit or to refer to a source for these procedures may not be grounds for:

- (i) Civil liability to another person; or
- (ii) Disciplinary or other recriminatory action against the person by this State or any person.

(d) Notwithstanding any other provision of this section, a health care provider, a licensed hospital, a hospital director, or a hospital governing board is not immune from civil damages, if available at law, or from disciplinary or other recriminatory action, if the failure to refer a patient to a source for any medical procedure that results in sterilization or termination of pregnancy would reasonably be determined as:

- (1) The cause of death or serious physical injury or serious long-lasting injury to the patient; and
- (2) Otherwise contrary to the standards of medical care.

Massachusetts

General Laws of Massachusetts Chapter 112: Section 12I. Abortion or sterilization procedures; refusal of hospital or health facility staff members or employees to participate.

Section 12I. A physician or any other person who is a member of or associated with the medical staff of a hospital or other health facility or any employee of a hospital or other health facility in which an abortion or any sterilization procedure is scheduled and who shall state in writing an objection to such abortion or sterilization procedure on moral or religious grounds, shall not be required to participate in the medical procedures which result in such abortion or sterilization, and the refusal of any such person to participate therein shall not form the basis for any claim of damages on account of such refusal or for any disciplinary or recriminatory action against such person. The refusal of any person who has made application to a medical, premedical, nursing, social work, or psychology program in the commonwealth to agree to counsel, suggest, recommend, assist, or in any way participate in the performance of an abortion or sterilization contrary to his religious beliefs or moral convictions shall not form the basis for any discriminatory action against such person. Conscientious objection to abortion shall not be grounds for dismissal, suspension, demotion, failure to promote, discrimination in hiring, withholding of pay or refusal to grant financial assistance under any state aided project, or used in any way to the detriment of the individual in any hospital, clinic, medical, premedical, nursing, social work, or psychology school or state aided program or institution which is supported in whole or in part by the commonwealth.

Chapter 272: Section 21B. Privately controlled hospital or health facility not required to perform abortion or sterilization procedures, or to furnish contraceptive devices or information or family planning services.

Section 21B. No privately controlled hospital or other health facility shall be required to admit any patient for the purpose of performing an abortion, performing any sterilization procedure, or receiving contraceptive devices or information.

No privately controlled hospital or other privately controlled health facility shall be required to permit any patient to have an abortion, or any sterilization procedure performed in said hospital or other health facility, or to furnish contraceptive devices or information to such patient, nor shall such a hospital or other health facility be required to furnish any family planning services within or through said hospital or other health facility or to make referrals to any other hospital or health facility for such services when said services or referrals are contrary to the religious or moral principles of said hospital or said health facility as expressed in its charter, by-laws or code of ethics, or vote of its governing body.

Any such hospital or other health facility exercising the rights granted in this section shall not on account of the exercise thereof, be disciplined or discriminated against in any manner or suffer any adverse determination by any

person, firm, corporation, or other entity, including but in no way limited to any political subdivision, board, commission, department, authority, or agency of the commonwealth.

Michigan

333.20181 Abortion ; admitting patient not required; refusal to perform, participate in, or allow; immunity. [M.S.A. 14.15(20181)]

Sec. 20181. A hospital, clinic, institution, teaching institution, or other health facility is not required to admit a patient for the purpose of performing an abortion . A hospital, clinic, institution, teaching institution, or other health facility or a physician, member, or associate of the staff, or other person connected therewith, may refuse to perform, participate in, or allow to be performed on its premises an abortion . The refusal shall be with immunity from any civil or criminal liability or penalty.

History: 1978, Act 368, Eff. Sept. 30, 1978

333.20182 Abortion ; objection; participation in medical procedures not required; immunity. [M.S.A. 14.15(20182)]

Sec. 20182. A physician, or other individual who is a member of or associated with a hospital, clinic, institution, teaching institution, or other health facility, or a nurse, medical student, student nurse, or other employee of a hospital, clinic, institution, teaching institution, or other health facility in which an abortion is performed, who states an objection to abortion on professional, ethical, moral, or religious grounds, is not required to participate in the medical procedures which will result in abortion . The refusal by the individual to participate does not create a liability for damages on account of the refusal or for any disciplinary or discriminatory action by the patient, hospital, clinic, institution, teaching institution, or other health facility against the individual. History: 1978, Act 368, Eff. Sept. 30, 1978

333.20183 Abortion ; refusal to give advice; refusal to participate in; immunity. [M.S.A. 14.15(20183)]

Sec. 20183. (1) A physician who informs a patient that he or she refuses to give advice concerning, or participate in, an abortion is not liable to the hospital, clinic, institution, teaching institution, health facility, or patient for the refusal.

(2) A civil action for negligence or malpractice or a disciplinary or discriminatory action may not be maintained against a person refusing to give advice as to, or participating in, an abortion based on the refusal. History: 1978, Act 368, Eff. Sept. 30, 1978

Minnesota

145.42 Abortions; nonliability for refusal to perform.

Subdivision 1. Damages. No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion, and no hospital that refuses to permit the performance of an abortion upon its premises, shall be liable to any person for damages allegedly arising from the refusal.

Subd. 2. Related actions. No physician, nurse, or other person who refuses to perform or assist in the

performance of an abortion shall, because of that refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital with which the person is affiliated or by which the person is employed.
HIST: 1971 c 693 s 1,2; 1986 c 444

Section: 145.414

145.414 Abortion not mandatory.

(a) No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

(b) It is the policy of the state of Minnesota that no health plan company as defined under section 62Q.01, subdivision 4, or health care cooperative as defined under section 62R.04, subdivision 2, shall be required to provide or provide coverage for an abortion. No provision of this chapter; of chapter 62A, 62C, 62D, 62H, 62L, 62M, 62N, 62R, 64B, or of any other chapter; of Minnesota Rules; or of Laws 1995, chapter 234, shall be construed as requiring a health plan company as defined under section 62Q.01, subdivision 4, or a health care cooperative as defined under section 62R.04, subdivision 2, to provide or provide coverage for an abortion.

(c) This section supersedes any provision of Laws 1995, chapter 234, or any act enacted prior to enactment of Laws 1995, chapter 234, that in any way limits or is inconsistent with this section. No provision of any act enacted subsequent to Laws 1995, chapter 234 shall be construed as in any way limiting or being inconsistent with this section, unless the act amends this section or expressly provides that it is intended to limit or be inconsistent with this section.

HIST: 1974 c 177 s 4; 1995 c 234 art 2 s 30

Section: 145.424

145.424 Prohibition of tort actions.

Subdivision 1. Wrongful life action prohibited.

No person shall maintain a cause of action or receive an award of damages on behalf of that person based on the claim that but for the negligent conduct of another, the person would have been aborted.

Subd. 2. Wrongful birth action prohibited.

No person shall maintain a cause of action or receive an award of damages on the claim that but for the negligent conduct of another, a child would have been aborted.

Subd. 3. Failure or refusal to prevent a live birth.

Nothing in this section shall be construed to preclude a cause of action for intentional or negligent malpractice or any other action arising in tort based on the failure of a contraceptive method or sterilization procedure or on a claim that, but for the negligent conduct of another, tests or treatment would have been provided or would have been provided properly which would have made possible the prevention, cure, or amelioration of any disease, defect, deficiency, or handicap; provided, however, that abortion shall not have been deemed to prevent, cure, or ameliorate any disease, defect, deficiency, or handicap. The failure or refusal of any person to perform or have an abortion shall not be a defense in any action, nor shall that failure or refusal be considered in awarding damages

or in imposing a penalty in any action.

HIST: 1982 c 521 s 1; 1986 c 444

Mississippi

Mississippi Code Ann. § 41-107-1. Title

This chapter may be known and cited as the "Mississippi Health Care Rights of Conscience Act."

§ 41-107-3. Definitions.

As used in this chapter:

(a) **"Health care service"** means any phase of patient medical care, treatment or procedure, including, but not limited to, the following: patient referral, counseling, therapy, testing, diagnosis or prognosis, research, instruction, prescribing, dispensing or administering any device, drug, or medication, surgery, or any other care or treatment rendered by health care providers or health care institutions.

(b) **"Health care provider"** means any individual who may be asked to participate in any way in a health care service, including, but not limited to: a physician, physician's assistant, nurse, nurses' aide, medical assistant, hospital employee, clinic employee, nursing home employee, pharmacist, pharmacy employee, researcher, medical or nursing school faculty, student or employee, counselor, social worker or any professional, paraprofessional, or any other person who furnishes, or assists in the furnishing of, a health care procedure.

(c) **"Health care institution"** means any public or private organization, corporation, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is involved in providing health care services, including, but not limited to: hospitals, clinics, medical centers, ambulatory surgical centers, private physician's offices, pharmacies, nursing homes, university medical schools and nursing schools, medical training facilities, or other institutions or locations where health care procedures are provided to any person.

(d) **"Health care payer"** means any entity or employer that contracts for, pays for, or arranges for the payment of, in whole or in part, a health care service, including, but not limited to, health maintenance organizations, health plans, insurance companies or management services organizations.

(e) **"Employer"** means any individual or entity that pays for or provides health benefits or health insurance coverage as a benefit to its employees, whether through a third party, a health maintenance organization, a program of self-insurance, or some other means.

(f) **"Participate"** in a health care service means to counsel, advise, provide, perform, assist in, refer for, admit for purposes of providing, or participate in providing, any health care service or any form of such service.

(g) **"Pay" or "payment"** means pay, contract for, or otherwise arrange for the payment of, in whole or in part.

(h) **"Conscience"** means the religious, moral or ethical principles held by a health care provider, the health care institution or health care payer. For purposes of this chapter, a health care institution or health care payer's conscience shall be determined by reference to its existing or proposed religious, moral or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations or other relevant documents.

§ 41-107-5. Rights of Conscience of Health Care Providers.

(1) **Rights of Conscience.** A health care provider has the right not to participate, and no health care provider shall be required to participate in a health care service that violates his or her conscience. However, this subsection does not allow a health care provider to refuse to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) **Immunity from Liability.** No health care provider shall be civilly, criminally, or administratively liable for declining to participate in a health care service that violates his or her conscience. However, this subsection does not exempt a health care provider from liability for refusing to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) **Discrimination.** It shall be unlawful for any person, health care provider, health care institution, public or private institution, public official, or any board which certifies competency in medical specialties to discriminate against any health care provider in any manner based on his or her declining to participate in a health care service that violates his or her conscience. For purposes of this chapter, discrimination includes, but is not limited to: termination, transfer, refusal of staff privileges, refusal of board certification, adverse administrative action, demotion, loss of career specialty, reassignment to a different shift, reduction of wages or benefits, refusal to award any grant, contract, or other program, refusal to provide residency training opportunities, or any other penalty, disciplinary or retaliatory action.

§ 41-107-7. Rights of Conscience of Health Care Institutions

(1) **Rights of Conscience.** A health care institution has the right not to participate, and no health care institution shall be required to participate in a health care service that violates its conscience. However, this subsection does not allow a health care institution to refuse to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) **Immunity from Liability.** A health care institution that declines to provide or participate in a health care service that violates its conscience shall not be civilly, criminally or administratively liable if the institution provides a consent form to be signed by a patient before admission to the institution stating that it reserves the right to decline to provide or participate in a health care service that violates its conscience. However, this subsection does not exempt a health care institution from liability for refusing to participate in a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) **Discrimination.** It shall be unlawful for any person, public or private institution, or public official to discriminate against any health care institution, or any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution, in any manner, including, but not limited to, any denial, deprivation or disqualification with respect to licensure, any aid assistance, benefit or privilege, including staff privileges, or any authorization, including authorization to create, expand, improve, acquire, or affiliate or merge with any health care institution, because such health care institution, or person, association, or corporation planning, proposing, or operating a health care institution, declines to participate in a health care service which violates the health care institution's conscience.

(4) **Denial of Aid or Benefit.** It shall be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants or benefits, or in any other manner to coerce, disqualify or discriminate against any person, association, corporation or other entity attempting to establish a new health care institution or operating

an existing health care institution because the existing or proposed health care institution declines to participate in a health care service contrary to the health care institution's conscience.

§ 41-107-9. Rights of conscience of health care payers.

(1) ***Rights of Conscience.*** A health care payer has the right to decline to pay, and no health care payer shall be required to pay for or arrange for the payment of a health care service that violates its conscience. However, this subsection does not allow a health care payer to decline to pay or arrange for the payment of a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(2) ***Immunity from Liability.*** No health care payer and no person, association, corporation or other entity that owns, operates, supervises or manages a health care payer shall be civilly or criminally liable by reason of the health care payer's declining to pay for or arrange for the payment of a health care service that violates its conscience. However, this subsection does not exempt from liability a health care payer, or the owner, operator, supervisor or manager of a health care payer, for declining to pay or arranging for the payment of a health care service regarding a patient because of the patient's race, color, national origin, ethnicity, sex, religion, creed or sexual orientation.

(3) ***Discrimination.*** It shall be unlawful for any person, public or private institution, or public official to discriminate against any health care payer, or any person, association, corporation, or other entity (a) attempting to establish a new health care payer, or (b) operating an existing health care payer, in any manner, including, but not limited to, any denial, deprivation, or disqualification with respect to licensure, aid, assistance, benefit, privilege or authorization, including, but not limited to, any authorization to create, expand, improve, acquire, affiliate or merge with any health care payer, because a health care payer, or a person, association, corporation or other entity planning, proposing or operating a health care payer declines to pay for or arrange for the payment of any health care service that violates its conscience.

(4) ***Denial of Aid or Benefits.*** It shall be unlawful for any public official, agency, institution or entity to deny any form of aid, assistance, grants, or benefits or in any other manner coerce, disqualify or discriminate against any health care payer, or any person, association, corporation or other entity attempting to establish a new health care payer or operating an existing health care payer because the existing or proposed health care payer declines to pay for, or arrange for the payment of, any health care service that is contrary to its conscience.

§ 41-107-11. Civil remedies

(1) A civil action for damages or injunctive relief, or both, may be brought for the violation of any provision of this chapter. It shall not be a defense to any claim arising out of the violation of this chapter that such violation was necessary to prevent additional burden or expense on any other health care provider, health care institution, individual or patient.

(2) ***Damage Remedies.*** Any individual, association, corporation, entity or health care institution injured by any public or private individual, association, agency, entity or corporation by reason of any conduct prohibited by this chapter may commence a civil action. Upon finding a violation of this chapter, the aggrieved party shall be entitled to recover threefold the actual damages, including pain and suffering, sustained by such individual, association, corporation, entity or health care institution, the costs of the action, and reasonable attorney's fees; but in no case shall recovery be less than Five Thousand Dollars (\$5,000.00) for each violation in addition to costs of the action

and reasonable attorney's fees. These damage remedies shall be cumulative, and not exclusive of other remedies afforded under any other state or federal law.

(3) ***Injunctive Remedies.*** The court in such civil action may award injunctive relief, including, but not limited to, ordering reinstatement of a health care provider to his or her prior job position.

§ 41-107-13. Severability.

The provisions of this chapter are declared to be severable, and if any provision, word, phrase or clause of this chapter or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this chapter.

Missouri

Section 188.105

Discrimination by employer prohibited because of failure of employee to participate in abortion--exceptions.

188.105. 1. It shall be unlawful:

(1) For an employer:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's refusal to participate in abortion;

(b) To limit, segregate, or classify his, her, or its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual's refusal to participate in abortion;

(c) To discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden under sections 188.100 to 188.120 or because he or she has filed a complaint, testified, or assisted in any legal proceeding under sections 188.100 to 188.120;

(2) For any person, whether an employer or employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under sections 188.100 to 188.120, or to attempt to do so.

2. Notwithstanding any other provision of sections 188.100 to 188.120, the acts proscribed in subsection 1 of this section shall not be unlawful if there can be demonstrated an inability to reasonably accommodate an individual's refusal to participate in abortion without undue hardship on the conduct of that particular business or enterprise, or in those certain instances where participation in abortion is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

3. Nothing contained in sections 188.100 to 188.120 shall be interpreted to require any employer to grant preferential treatment to any individual because of such individual's refusal to participate in abortion.

(L. 1986 H.B. 1596)

Section 188.110

Discrimination by colleges, universities and hospitals prohibited-- no requirement to pay fees, when.

188.110. 1. No public or private college, university or hospital shall discriminate against any person for refusal to participate in abortion.

2. No applicant, student, teacher, or employee of any school shall be required to pay any fees that would in whole or in part fund an abortion for any other applicant, student, teacher, or employee of that school, if the individual required to pay the fee gives written notice to the proper school authorities that it would be in violation of his or her conscience or beliefs to pay for or fund abortions. The school may require the individual to pay that part of the fees not funding abortions, if the school makes reasonable precautions and gives reasonable assurance that the fees that are paid are segregated from any fund for the payment of abortions.

(L. 1986 H.B. 1596)

Chapter 197 Medical Treatment Facility Licenses

Section 197.032

Hospitals and medical personnel may refuse abortions--no denial of public benefits for such refusal--civil action, when.

197.032. 1. No physician or surgeon, registered nurse, practical nurse, midwife or hospital, public or private, shall be required to treat or admit for treatment any woman for the purpose of abortion if such treatment or admission for treatment is contrary to the established policy of, or the moral, ethical or religious beliefs of, such physician, surgeon, registered nurse, midwife, practical nurse or hospital. No cause of action shall accrue against any such physician, surgeon, registered nurse, midwife, practical nurse or hospital on account of such refusal to treat or admit for treatment any woman for abortion purposes.

2. No person or institution shall be denied or discriminated against in the reception of any public benefit, assistance or privilege whatsoever or in any employment, public or private, on the grounds that they refuse to undergo an abortion, to advise, consent to, assist in or perform an abortion.

3. Any person who shall deny or discriminate against another for refusal to perform or participate in an abortion shall be liable to the party injured in an action at law, suit in equity or other redress.

(L. 1973 H.B. 731 & 793 §§ 1, 2, 3)

Coverage for certain obstetrical/gynecological services--exclusion of contraceptive coverage permitted, when--rulemaking authority.

376.1199. 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits and pharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:

(1) . . . Nothing in this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, RSMo, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805 . . .

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier may issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives if the use or provision of such contraceptives is contrary to the moral, ethical or religious beliefs or tenets of such person or entity;

(2) Upon request of an enrollee who is a member of a group health benefit plan and who states that the use or provision of contraceptives is contrary to his or her moral, ethical or religious beliefs, any health carrier shall issue to or on behalf of such enrollee a policy form that excludes coverage for contraceptives. Any administrative costs to a group health benefit plan associated with such exclusion of coverage not offset by the decreased costs of providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in substantial part by an entity that is operated pursuant to moral, ethical or religious tenets that are contrary to the use or provision of contraceptives shall be exempt from the provisions of subdivision (4) of subsection 1 of this section.

For purposes of this subsection, if new premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

5. Except for a health carrier that is exempted from providing coverage for contraceptives pursuant to this section, a health carrier shall allow enrollees in a health benefit plan that excludes coverage for contraceptives pursuant to subsection 4 of this section to purchase a health benefit plan that includes coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section shall provide clear and conspicuous written notice on the enrollment form or any accompanying materials to the enrollment form and the group health benefit plan contract:

(1) Whether coverage for contraceptives is or is not included;

(2) That an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs; and

(3) That an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

Chapter 404- Durable Powers of Attorney for Health Care

Physician, health care facility, may refuse decision of attorney in fact, when--transfer from facility allowed.

404.830. 1. No physician, nurse, or other individual who is a health care provider or an employee of a health care facility shall be required to honor a health care decision of an attorney in fact if that decision is contrary to the individual's religious beliefs, or sincerely held moral convictions.

2. No hospital, nursing facility, residential care facility, or other health care facility shall be required to honor a health care decision of an attorney in fact if that decision is contrary to the hospital's or facility's institutional policy based on religious beliefs or sincerely held moral convictions unless the hospital or facility received a copy of the durable power of attorney for health care prior to commencing the current series of treatments or current confinement.

3. Any health care provider or facility which, pursuant to subsection 1 or 2 of this section, refuses to honor a health care decision of an attorney in fact shall not impede the attorney in fact from transferring the patient to another health care provider or facility.

Refusal to honor health care decision, discrimination prohibited, when.

404.872. No physician, nurse, or other individual who is a health care provider or an employee of a health care facility shall be discharged or otherwise discriminated against in his employment or employment application for refusing to honor a health care decision withholding or withdrawing life-sustaining treatment if such refusal is based upon the individual's religious beliefs, or sincerely held moral convictions.

Montana

50-20-111. Right to refuse participation in abortion.

(1) No private hospital or health care facility shall be required contrary to the religious or moral tenets or the stated religious beliefs or moral convictions of its staff or governing board to admit any person for the purpose of abortion or to permit the use of its facilities for such purpose. Such refusal shall not give rise to liability of such hospital or health care facility or any personnel or agent or governing board thereof to any person for damages allegedly arising from such refusal or be the basis for any discriminatory, disciplinary, or other recriminatory action against such hospital or health care facility or any personnel, agent, or governing board thereof.

(2) All persons shall have the right to refuse to advise concerning, perform, assist, or participate in abortion because of religious beliefs or moral convictions. If requested by any hospital or health care facility or person desiring an abortion, such refusal shall be in writing signed by the person refusing, but may refer generally to the grounds of "religious beliefs and moral convictions". The refusal of any person to advise concerning, perform, assist, or participate in abortion shall not be a consideration in respect of staff privileges of any hospital or health care facility or a basis for any discriminatory, disciplinary, or other recriminatory action against such person, nor shall such person be liable to any person for damages allegedly arising from refusal.

(3) It shall be unlawful to interfere or attempt to interfere with the right of refusal authorized by this section. The person injured thereby shall be entitled to injunctive relief, when appropriate, and shall further be entitled to monetary damages for injuries suffered.

(4) Such refusal by any hospital or health care facility or person shall not be grounds for loss of any privileges or immunities to which the granting of consent may otherwise be a condition precedent or for the loss of any public

benefits.

(5) As used in this section, the term "person" includes one or more individuals, partnerships, associations, and corporations.

Nebraska

LAW 28-337. Hospital, clinic, institution; not required to admit patient for abortion

No hospital, clinic, institution, or other facility in this state shall be required to admit any patient for the purpose of performing an abortion nor required to allow the performance of an abortion therein, but the hospital, clinic, institution, or other facility shall inform the patient of its policy not to participate in abortion procedures. No cause of action shall arise against any hospital, clinic, institution, or other facility for refusing to perform or allow an abortion.

LAW 28-338. No person required to perform an abortion; no liability for refusal.

No person shall be required to perform or participate in any abortion, and the refusal of any person to participate in an abortion shall not be a basis for civil liability to any person. No hospital, governing board, or any other person, firm, association, or group shall terminate the employment or alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to participate in an abortion.

LAW 28-339 Discrimination against person refusing to participate in an abortion; violation; penalty.

Any violation of section 28-338 is a Class II misdemeanor.

LAW 28-340 Discrimination against person refusing to participate in an abortion; damages.

Any person whose employment or position has been in any way altered, impaired, or terminated in violation of sections 28-325 to 28-345 may sue in the district court for all consequential damages, lost wages, reasonable attorney's fees incurred, and the cost of litigation.

LAW 28-341 Discrimination against person refusing to participate in an abortion; injunctive relief.

Any person whose employment or position has in any way been altered, impaired, or terminated because of his refusal to participate in an abortion shall have the right to injunctive relief, including temporary relief, pending trial upon showing of an emergency, in the district court, in accordance with the statutes, rules, and practices applicable in other similar cases.

Nevada

Nevada revised Statutes 632.475 Unlawful to require participation in abortion.

1. An employer shall not require a registered nurse, a licensed practical nurse, a nursing assistant or any other person employed to furnish direct personal health service to a patient to participate directly in the induction or performance of an abortion if the employee has filed a written statement with the employer indicating a moral, ethical or religious basis for refusal to participate in the abortion.

2. If the statement provided for in subsection 1 is filed with the employer, the employer shall not penalize or discipline the employee for declining to participate directly in the induction or performance of an abortion.

3. The provisions of subsections 1 and 2 do not apply to medical emergency situations.

4. Any person violating the provisions of this section is guilty of a misdemeanor.

(Added to NRS by 1973, 898, 1639; A 1989, 2017)

New Jersey

2A:65A-1. Requirement of person to perform; prohibition

No person shall be required to perform or assist in the performance of an abortion or sterilization.

L.1974, c. 111, s. 1, eff. Oct. 2, 1974.

2A:65A-2. Requirement of hospital or other health care facility to provide services or procedures; prohibition

No hospital or other health care facility shall be required to provide abortion or sterilization services or procedures.

L.1974, c. 111, s. 2, eff. Oct. 2, 1974.

2A:65A-3. Refusal to perform or provide services or procedures; nonliability

The refusal to perform, assist in the performance of, or provide abortion services or sterilization procedures shall not constitute grounds for civil or criminal liability, disciplinary action or discriminatory treatment.

L.1974, c. 111, s. 3, eff. Oct. 2, 1974.

New Mexico

New Mexico Statutes Unannotated 30-5-2 Persons and institutions exempt (1994 Repl.)

This article does not require a hospital to admit any patient for the purposes of performing an abortion, nor is any hospital required to create a special hospital board. A person who is a member of, or associated with, the staff of a hospital, or any employee of a hospital, in which a justified medical termination has been authorized and who objects to the justified medical termination on moral or religious grounds shall not be required to participate in medical procedures which will result in the termination of pregnancy, and the refusal of any such person to

participate shall not form the basis of any disciplinary or other recriminatory action against such person.
History: 1953 Comp., § 40A-5-2, enacted by Laws 1969, ch. 67, § 2.

New York

New York Civil Rights Law s.79-i (Consol.1989) Discrimination against person who refuses to perform certain act prohibited.

1. When the performing of an abortion on a human being or assisting thereat is contrary to the conscience or religious beliefs of any person, he may refuse to perform or assist in such abortion by filing a prior written refusal setting forth the reasons therefor with the appropriate and responsible hospital, person, firm, corporation or association, and no such hospital, person, firm, corporation or association shall discriminate against the person so refusing to act. A violation of the provisions of this section shall constitute a misdemeanor.
2. No civil action for negligence or malpractice shall be maintained against a person so refusing to act based on such refusal.

North Carolina

§ 14-45.1. When abortion not unlawful

(e) Nothing in this section shall require a physician licensed to practice medicine in North Carolina or any nurse who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of such physician to perform or participate in these medical procedures shall not be a basis for damages for such refusal, or for any disciplinary or any other recriminatory action against such physician.

(f) Nothing in this section shall require a hospital or other health care institution to perform an abortion or to provide abortion services. (1967, c. 367, s. 2; 1971, c. 383, ss. 1, 11/2; 1973, c. 139; c. 476, s. 128; c. 711; 1997-443, s. 11A.118(a).)

North Dakota

23-16-14. Participation in abortion - Not mandatory.

No hospital, physician, nurse, hospital employee, nor any other person is under any duty, by law or contract, nor may such hospital or person in any circumstances be required to participate in the performance of an abortion, if such hospital or person objects to such abortion. No such person or institution may be discriminated against because he or they so object.

Ohio

Ohio Revised Code Section 4731.91

(A) No private hospital, private hospital director, or governing board of a private hospital is required to permit an abortion.

(B) No public hospital, public hospital director, or governing board of a public hospital is required to permit an abortion.

(C) Refusal to permit an abortion is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

(D) No person is required to perform or participate in medical procedures which result in abortion, and refusal to perform or participate in the medical procedures is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

(E) Whoever violates division (D) of this section is liable in civil damages.

Oklahoma

1998 Oklahoma State Statutes §63-1-741.

A. No private hospital, hospital director or governing board of a private hospital in Oklahoma, is required to permit abortions to be performed or induced in such hospital. Refusal to permit an abortion, in accordance with a standard policy, is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

B. No person may be required to perform, induce or participate in medical procedures which result in an abortion which are in preparation for an abortion or which involve aftercare of an abortion patient, except when the aftercare involves emergency medical procedures which are necessary to protect the life of the patient, and refusal to perform or participate in such medical procedures is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

C. The rights and immunities granted by this section shall not include medical procedures in which a woman is in the process of the spontaneous, inevitable abortion of an unborn child, the death of the child is imminent, and the procedures are necessary to prevent the death of the mother.

§63-1-728 *Freedom of Conscience Act*

§63-1-728. Short title.

This act shall be known and may be cited as the "*Freedom of Conscience Act*".

§63-1-728.1. Definitions.

As used in the *Freedom of Conscience Act*:

1. "Health care facility" means any public or private organization, corporation, authority, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is involved in providing health care services, including a hospital, clinic, medical center, ambulatory surgical center, private physician's office, pharmacy, nursing home, university hospital, medical school, nursing school, medical training facility, inpatient health care facility, or other place where health care services are provided;
2. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells;
3. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body;
4. "Participate in" means to perform, practice, engage in, assist in, recommend, counsel in favor of, make referrals for, prescribe, dispense, or administer drugs or devices or otherwise promote or encourage; and
5. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized.

§63-1-728.2. Reasonable accommodation of religious observances or practices.

An employer shall not discriminate against an employee or prospective employee by refusing to reasonably accommodate the religious observance or practice of the employee or prospective employee, unless the employer can demonstrate that the accommodation would pose an undue hardship on the program, enterprise, or business of the employer, in the following circumstances:

1. An abortion as defined in Section 1-730 of Title 63 of the Oklahoma Statutes. The provisions of this section shall not apply if the pregnant woman suffers from a physical disorder, physical injury, or physical illness which, as certified by a physician, causes the woman to be in imminent danger of death unless an abortion is immediately performed or induced and there are no other competent personnel available to attend to the woman. As used in this act, the term "abortion" shall not include the prescription of contraceptives;
2. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo;
3. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo;
4. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child;
5. A procedure, including a transplant procedure, that uses fetal tissue or organs that come from a source other than a stillbirth or miscarriage; or
6. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

§63-1-728.3. Health care facilities, professionals or employees - Refusal to participate in specified acts - Discipline prohibited - Immunity.

A. No health care facility is required to admit any patient or to allow the use of the health care facility for the purpose of performing any of the acts specified in Section 3 of this act.

B. A physician, physician's assistant, registered nurse, practical nurse, pharmacist, or any employee thereof, or any other person who is an employee of, member of, or associated with the staff of a health care facility in which the performance of an activity specified in Section 3 of this act has been authorized, who in writing, refuses or states an intention to refuse to participate in the activity on moral or religious grounds shall not be required to participate in the activity and shall not be disciplined by the respective licensing board or authorized regulatory department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

C. A physician, physician's assistant, registered nurse, practical nurse, pharmacist, or any employee thereof, or any other person who is an employee of, member of, or associated with the staff of a health care facility is immune from liability for any damage caused by the refusal of the person to participate in an activity specified in Section 3 of this act on moral or religious grounds.

§63-1-728.4. Refusal to participate in specified acts - Discrimination, mandatory participation prohibited.

A. No health care facility, school, or employer shall discriminate against any person with regard to admission, hiring or firing, tenure, term, condition, or privilege of employment, student status, or staff status on the ground that the person refuses or states an intention to refuse, whether or not in writing, to participate in an activity specified in Section 3 of this act, if the refusal is based on religious or moral precepts.

B. No person shall be required to:

1. Participate in an activity specified in Section 3 of this act if the individual's participation in the activity is contrary to the person's religious beliefs or moral convictions;
2. Make facilities available for an individual to participate in an activity specified in Section 3 of this act if the person prohibits the activity from taking place in the facilities on the basis of religious beliefs or moral convictions; or
3. Provide any personnel to participate in an activity specified in Section 3 of this act if the activity is contrary to the religious beliefs or moral convictions of the personnel.

§63-1-728.5. Action for equitable relief - Attorney fees - Limitation.

A. For the purposes of this section, "damages" do not include noneconomic damages, as defined in Section 1-1708.1C of Title 63 of the Oklahoma Statutes.

B. A person who is adversely affected by conduct that is in violation of the Freedom of Conscience Act may bring a civil action for equitable relief, including reinstatement or damages, or both reinstatement and damages. An action under this subsection may be commenced against the state and any office, department, independent agency, authority, institution, association, or other body in state government created or authorized to be created by the state constitution or any law. In an action under this subsection, the court shall award reasonable attorney fees to a person who obtains equitable relief, damages, or both. An action under this subsection shall be commenced within one (1) year after the cause of action accrues or be barred.

Oregon

Oregon Revised Statutes (Death With Dignity Act) 127.885 s.4.01.

Except as provided in ORS 127.890:

(1) No person shall be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with ORS 127.800 to 127.897. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner.

(2) No professional organization or association, or health care provider, may subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other penalty for participating or refusing to participate in good faith compliance with ORS 127.800 to 127.897.

(3) No request by a patient for or provision by an attending physician of medication in good faith compliance with the provisions of ORS 127.800 to 127.897 shall constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

(4) No health care provider shall be under any duty, whether by contract, by statute or by any other legal requirement to participate in the provision to a qualified patient of medication to end his or her life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under ORS 127.800 to 127.897, and the patient transfers his or her care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(5)(a) Notwithstanding any other provision of law, a health care provider may prohibit another health care provider from participating in ORS 127.800 to 127.897 on the premises of the prohibiting provider if the prohibiting provider has notified the health care provider of the prohibiting provider's policy regarding participating in ORS 127.800 to 127.897. Nothing in this paragraph prevents a health care provider from providing health care services to a patient that do not constitute participation in ORS 127.800 to 127.897.

(b) Notwithstanding the provisions of subsections (1) to (4) of this section, a health care provider may subject another health care provider to the sanctions stated in this paragraph if the sanctioning health care provider has notified the sanctioned provider prior to participation in ORS 127.800 to 127.897 that it prohibits participation in ORS 127.800 to 127.897:

(A) Loss of privileges, loss of membership or other sanction provided pursuant to the medical staff bylaws, policies and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in ORS 127.800 to 127.897 while on the health care facility premises, as defined in ORS 442.015, of the sanctioning health care provider, but not including the private medical office of a physician or other provider;

(B) Termination of lease or other property contract or other nonmonetary remedies provided by lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in ORS 127.800 to 127.897 while on the premises of the sanctioning health care provider or

on property that is owned by or under the direct control of the sanctioning health care provider; or

(C) Termination of contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in ORS 127.800 to 127.897 while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subparagraph shall be construed to prevent:

(i) A health care provider from participating in ORS 127.800 to 127.897 while acting outside the course and scope of the provider's capacity as an employee or independent contractor; or

(ii) A patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(c) A health care provider that imposes sanctions pursuant to paragraph (b) of this subsection must follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(d) For purposes of this subsection:

(A) "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider prior to the provider's participation in ORS 127.800 to 127.897 of the sanctioning health care provider's policy about participation in activities covered by ORS 127.800 to 127.897.

(B) "Participate in ORS 127.800 to 127.897" means to perform the duties of an attending physician pursuant to ORS 127.815, the consulting physician function pursuant to ORS 127.820 or the counseling function pursuant to ORS 127.825. "Participate in ORS 127.800 to 127.897" does not include:

(i) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;

(ii) Providing information about the Oregon Death with Dignity Act to a patient upon the request of the patient;

(iii) Providing a patient, upon the request of the patient, with a referral to another physician; or

(iv) A patient contracting with his or her attending physician and consulting physician to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(6) Suspension or termination of staff membership or privileges under subsection (5) of this section is not reportable under ORS 441.820. Action taken pursuant to ORS 127.810, 127.815, 127.820 or 127.825 shall not be the sole basis for a report of unprofessional or dishonorable conduct under ORS 677.415 (2) or (3).

(7) No provision of ORS 127.800 to 127.897 shall be construed to allow a lower standard of care for patients in the community where the patient is treated or a similar community. [1995 c.3 s.4.01; 1999 c.423 s.10]

Note: As originally enacted by the people, the leadline to section 4.01 read "Immunities." The remainder of the leadline was added by editorial action.

Oregon Revised Statutes (Family planning & abortion)

435.215 Right to refuse services protected.

The refusal of any person to accept family planning and birth control services shall in no way affect the right of such person to receive public assistance or any other public benefit and every person to whom such services are offered shall be so advised initially both orally and in writing. Employees engaged in the administration of ORS 435.205 to 435.235 shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual and nothing in ORS 435.205 to 435.235 shall in any way abridge such individual right, nor shall any individual be required to state the reason for refusing the offer of family planning and birth control services. [1967 c.491 s.3; 1971 c.779 s.66; 1987 c.158 s.81]

435.225 Refusal by employee to offer services.

Any employee of the Adult and Family Services Division may refuse to accept the duty of offering family planning and birth control services to the extent that such duty is contrary to the personal or religious beliefs of the employee. However, such employee shall notify the immediate supervisor in writing of such refusal in order that arrangements may be made for eligible persons to obtain such information and services from another employee. Such refusal shall not be grounds for any disciplinary action, for dismissal, for any interdepartmental transfer, for any other discrimination in employment, or for suspension from employment, or for any loss in pay or other benefits. [1967 c.491 s.4; 1971 c.779 s.67]

435.235 Construction of ORS 435.205 to 435.235.

ORS 435.205 to 435.235 shall be liberally construed to protect the rights of all individuals to pursue their religious beliefs, to follow the dictates of their own consciences, to prevent the imposition upon any individual of practices offensive to the individual's moral standards, to respect the right of every individual to self-determination in the procreation of children, and to insure a complete freedom of choice in pursuance of constitutional rights. [1967 c.491 s.5]

435.435 Effect of refusal to consent to termination.

The refusal of any person to consent to a termination of pregnancy or to submit thereto shall not be grounds for loss of any privilege or immunity to which the person is otherwise entitled nor shall consent to or submission to a termination of pregnancy be imposed as a condition to the receipt of any public benefits. [1969 c.684 ss.7,12; 1983 c.470 s.5]

435.475 Refusal to admit patient for termination.

(1) Except as provided in subsection (3) of this section, no hospital is required to admit any patient for the purpose of terminating a pregnancy. No hospital is liable for its failure or refusal to participate in such termination if the hospital has adopted a policy not to admit patients for the purposes of terminating pregnancies. However, the hospital must notify the person seeking admission to the hospital of its policy.

(2) All hospitals that have not adopted a policy not to admit patients seeking termination of a pregnancy shall admit patients seeking such termination in the same manner and subject to the same conditions as imposed on any other patient seeking admission to the hospital.

(3) No hospital operated by this state or by a political subdivision in this state is authorized to adopt a policy of

excluding or denying admission to any person seeking termination of a pregnancy. [1969 c.684 s.9; 1983 c.470 s.2]

435.485 Medical personnel not required to participate in termination.

(1) No physician is required to give advice with respect to or participate in any termination of a pregnancy if the refusal to do so is based on an election not to give such advice or to participate in such terminations and the physician so advises the patient.

(2) No hospital employee or member of the hospital medical staff is required to participate in any termination of a pregnancy if the employee or staff member notifies the hospital of the election not to participate in such terminations. [1969 c.684 ss.10,11; 1983 c.470 s.3]

Insurance Code

(The following provisions from HB 2700, 9 March, 2007, have been incorporated into the Oregon Revised Statutes, 750.055 and 750.333. The bill was signed by the Governor on 31 May, 2007)

(1) A prescription drug benefit program, or a prescription drug benefit offered under a health benefit plan as defined in ORS 743.730 or under a student health insurance policy, must provide payment, coverage or reimbursement for:

- (a) Prescription contraceptives; and
- (b) If covered for other drug benefits under the program, plan or policy, outpatient consultations, examinations, procedures and medical services that are necessary to prescribe, dispense, deliver, distribute, administer or remove a prescription contraceptive.

(2) The coverage required by subsection (1) of this section may be subject to provisions of the program, plan or policy that apply equally to other prescription drugs covered by the program, plan or policy, including but not limited to required copayments, deductibles and coinsurance.

(3) As used in this section, 'contraceptive' means a drug or device approved by the United States Food and Drug Administration to prevent pregnancy.

(4) A religious employer is exempt from the requirements of this section with respect to a prescription drug benefit program or a health benefit plan it provides to its employees. A 'religious employer' is an employer:

- (a) Whose purpose is the inculcation of religious values;
- (b) That primarily employs persons who share the religious tenets of the employer;
- (c) That primarily serves persons who share the religious tenets of the employer; and
- (d) That is a nonprofit organization under section 6033(a)(2)(A)(i) or (iii) of the Internal Revenue Code

Pennsylvania

§ 3213. Prohibited acts.

(d) Participation in abortion.--Except for a facility devoted exclusively to the performance of abortions, no medical personnel or medical facility, nor any employee, agent or student thereof, shall be required against his or its conscience to aid, abet or facilitate performance of an abortion or dispensing of an abortifacient and failure or refusal to do so shall not be a basis for any civil, criminal, administrative or disciplinary action, penalty or

proceeding, nor may it be the basis for refusing to hire or admit anyone. Nothing herein shall be construed to limit the provisions of the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act." Any person who knowingly violates the provisions of this subsection shall be civilly liable to the person thereby injured and, in addition, shall be liable to that person for punitive damages in the amount of \$5,000.

Rhode Island

Section 23-17-11 § 23-17-11

Abortion and sterilization -- Protection for nonparticipation -- Procedure. --

A physician or any other person who is a member of or associated with the medical staff of a health care facility or any employee of a health care facility in which an abortion or any sterilization procedure is scheduled, and who shall state in writing an objection to the abortion or sterilization procedure on moral or religious grounds, shall not be required to participate in the medical procedures which result in the abortion or sterilization, and the refusal of the person to participate therein shall not form the basis for any claim of damages on account of the refusal or for any disciplinary or recriminatory action against the person.

South Carolina

Section 44-41-40. Certain hospitals or clinics may refuse to perform abortions

No private or nongovernmental hospital or clinic shall be required to admit any patient for the purpose of terminating a pregnancy, nor shall such institutions be required to permit their facilities to be utilized for the performance of abortions. No cause of action shall arise against any such hospital or clinic for refusal to perform or to allow the performance of an abortion if the institution has adopted a policy not to admit patients for the purpose of terminating pregnancies; provided, that no hospital or clinic shall refuse an emergency admittance.

SECTION 44-41-50. Medical employees shall not be required to aid in abortions; providing necessary aftercare following abortion.

(a) No physician, nurse, technician or other employee of a hospital, clinic or physician shall be required to recommend, perform or assist in the performance of an abortion if he advises the hospital, clinic or employing physician in writing that he objects to performing, assisting or otherwise participating in such procedures. Such notice will suffice without specification of the reason therefor.

(b) No physician, nurse, technician or other person who refuses to perform or assist in the performance of an abortion shall be liable to any person for damages allegedly arising from such refusal.

(c) No physician, nurse, technician or other person who refuses to perform or assist in the performance of an abortion shall because of that refusal be dismissed, suspended, demoted, or otherwise disciplined or discriminated against by the hospital or clinic with which he is affiliated or by which he is employed. A civil action for damages or reinstatement of employment, or both, may be prosecuted by any person whose employment or affiliation with a hospital or clinic has been altered or terminated in violation of this chapter.

South Dakota

South Dakota Codified Law 34-23A-11. Counselor or social worker not liable for arranging abortion -- Retaliation from employer prohibited.

No counselor, social worker or anyone else who may be in such a position where the abortion question may appear as a part of their workday routine, shall be liable to any person for damages allegedly arising from advising or helping to arrange for or for refusal to arrange or encourage abortion, and there shall be no retaliation from any agency or institution with which such person may be affiliated or by which he may be employed.

34-23A-12. No liability for refusal to perform abortion.

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion shall be liable to any person for damages arising from that refusal.

34-23A-13. Medical facility not to discriminate for performance or refusal to perform abortion.

No physician, nurse or other person who performs or refuses to perform or assist in the performance of an abortion shall, because of that performance or refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital or other medical facility with which he is affiliated or by which he is employed.

34-23A-14. Hospital not required to perform abortions -- No liability for refusal of abortion as policy.

No hospital licensed pursuant to the provisions of chapter 34-12 is required to admit any patient for the purpose of terminating a pregnancy pursuant to the provisions of this chapter. No hospital is liable for its failure or refusal to participate in such termination if the hospital has adopted a policy not to admit patients for the purpose of terminating pregnancies as provided in this chapter.

36-11-70. Refusal to dispense medication.

No pharmacist may be required to dispense medication if there is reason to believe that the medication would be used to:

- (1) Cause an abortion; or
- (2) Destroy an unborn child as defined in subdivision 22-1-2(50A); or
- (3) Cause the death of any person by means of an assisted suicide, euthanasia, or mercy killing.

No such refusal to dispense medication pursuant to this section may be the basis for any claim for damages against the pharmacist or the pharmacy of the pharmacist or the basis for any disciplinary, recriminatory, or discriminatory action against the pharmacist.

Tennessee

Tennessee Code 39-15-204. Right to refuse to perform abortions.

No physician shall be required to perform an abortion and no person shall be required to participate in the performance of an abortion. No hospital shall be required to permit abortions to be performed therein. [Acts 1989, ch. 591, § 1.]

39-15-205. Right of hospitals to refuse to accept abortion patients.

No section of this part shall be construed to force a hospital to accept a patient for an abortion. [Acts 1989, ch. 591, § 1.]

68-34-104. Contraceptives — Availability — Information — Religious belief. —

(5) No private institution or physician, nor any agent or employee of such institution or physician, shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when such refusal is based upon religious or conscientious objection, and no such institution, employee, agent, or physician shall be held liable for such refusal;

Texas

Vernon's Civil Statutes Art. 4512.7. Right not to perform abortions.

Sec. 1. Personnel Not Required to Participate in Abortion Procedures.

A physician, nurse, staff member, or employee of a hospital or other health care facility who objects to performing or participating, directly or indirectly, in an abortion procedure may not be required to perform or participate, directly or indirectly, in an abortion procedure.

Sec. 2. Private Hospitals Not Required to Make Facilities Available.

A private hospital or private health care facility may not be required to make its facilities available for the performance of an abortion unless a physician determines that the life of the mother is immediately endangered.

Sec. 3. Discrimination Prohibited.

A hospital or health care facility may not discriminate in any manner against a physician, nurse, staff member, or employee or against an applicant for such positions, who refuses to perform or participate in an abortion procedure. No physician, nurse, staff person, or employee shall be discriminated against for their willingness to participate in abortion procedures at other facilities. An educational institution may not discriminate against applicants for admission or employment as students, interns, or residents because of their attitudes concerning

abortion.

Sec. 4. Remedies.

A person whose rights under this Act are violated may sue a hospital, health care facility, or educational institution in district court in the county where the hospital, facility, or institution is located to enjoin further violations of this Act and for such affirmative relief as may be appropriate, including, but not limited to, admission or reinstatement of employment with back pay plus 10 percent interest, and any other relief necessary to ensure compliance with the provisions of this Act.

Acts 1977, 65th Leg., p. 1870, ch. 745, eff. Aug. 29, 1977.

Utah

Utah Code 76-7-306. Physician, hospital employee, or hospital not required to participate in abortion.

(1) A physician, or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which an abortion has been authorized, who states an objection to an abortion or the practice of abortion in general on moral or religious grounds shall not be required to participate in the medical procedures which will result in the abortion, and the refusal of any person to participate shall not form the basis of any claim for damages on account of the refusal or for any disciplinary or recriminatory action against such person, nor shall any moral or religious scruples or objections to abortions be the grounds for any discrimination in hiring in this state.

(2) Nothing in this part shall require any private and/or denominational hospital to admit any patient for the purpose of performing an abortion.

Amended by Chapter 20, 1995 General Session

78-11-24. Act or omission preventing abortion not actionable.

A cause of action shall not arise, and damages shall not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

Enacted by Chapter 167, 1983 General Session

Virginia

Code of Virginia § 18.2-75 Conscience clause

Nothing in §§18.2-72, 18.2-73 or §18.2-74 shall require a hospital or other medical facility or physician to admit any patient under the provisions hereof for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on personal, ethical, moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and the refusal of such person, hospital or other medical facility to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person, nor shall any such person be denied employment because of such objection or refusal. The written objection shall remain in effect until such person shall revoke it in writing or terminate his association with the facility with which it is filed.

Washington

Revised Code of Washington RCW 9.02.150 Refusing to perform

No person or private medical facility may be required by law or contract in any circumstances to participate in the performance of an abortion if such person or private medical facility objects to so doing. No person may be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the termination of a pregnancy.

Washington Death With Dignity Act RCW 70.245.190

Note: This law legalizes assisted suicide. It includes the following protection of conscience provisions. Note that, under Section 2(a), objecting hospitals can prohibit assisted suicide on their premises, but under 2(d)ii are forced to permit health care workers on their premises to refer patients for assisted suicide.

Immunities — Basis for prohibiting health care provider from participation — Notification — Permissible sanctions. (Effective March 5, 2009.)

(1) Except as provided in RCW 70.245.200 and subsection (2) of this section:

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this chapter. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner;

(b) A professional organization or association, or health care provider, may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this chapter;

(c) A patient's request for or provision by an attending physician of medication in good faith compliance with this chapter does not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator; and

(d) Only willing health care providers shall participate in the provision to a qualified patient of medication to end his or her life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under this chapter, and the patient transfers his or her care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(2)(a) A health care provider may prohibit another health care provider from participating under chapter 1, Laws of 2009 on the premises of the prohibiting provider if the prohibiting provider has given notice to all health care providers with privileges to practice on the premises and to the general public of the prohibiting provider's policy regarding participating under chapter 1, Laws of 2009. This subsection does not prevent a health care provider from providing health care services to a patient that do not constitute participation under chapter 1, Laws of 2009.

(b) A health care provider may subject another health care provider to the sanctions stated in this subsection if

the sanctioning health care provider has notified the sanctioned provider before participation in chapter 1, Laws of 2009 that it prohibits participation in chapter 1, Laws of 2009:

(i) Loss of privileges, loss of membership, or other sanctions provided under the medical staff bylaws, policies, and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in chapter 1, Laws of 2009 while on the health care facility premises of the sanctioning health care provider, but not including the private medical office of a physician or other provider;

(ii) Termination of a lease or other property contract or other nonmonetary remedies provided by a lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in chapter 1, Laws of 2009 while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or

(iii) Termination of a contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in chapter 1, Laws of 2009 while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subsection (2)(b)(iii) prevents:

(A) A health care provider from participating in chapter 1, Laws of 2009 while acting outside the course and scope of the provider's capacity as an employee or independent contractor; or

(B) A patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(c) A health care provider that imposes sanctions under (b) of this subsection shall follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(d) For the purposes of this subsection:

(i) "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider before the provider's participation in chapter 1, Laws of 2009 of the sanctioning health care provider's policy about participation in activities covered by this chapter.

(ii) "Participate in chapter 1, Laws of 2009" means to perform the duties of an attending physician under RCW 70.245.040, the consulting physician function under RCW 70.245.050, or the counseling function under RCW 70.245.060. "Participate in chapter 1, Laws of 2009" does not include:

(A) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;

(B) Providing information about the Washington death with dignity act to a patient upon the request of the patient;

(C) Providing a patient, upon the request of the patient, with a referral to another physician; or

(D) A patient contracting with his or her attending physician and consulting physician to act outside of the course

and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(3) Suspension or termination of staff membership or privileges under subsection (2) of this section is not reportable under RCW 18.130.070. Action taken under RCW 70.245.030, 70.245.040, 70.245.050, or 70.245.060 may not be the sole basis for a report of unprofessional conduct under RCW 18.130.180.

(4) References to "good faith" in subsection (1)(a), (b), and (c) of this section do not allow a lower standard of care for health care providers in the state of Washington.

[2009 c 1 § 19 (Initiative Measure No. 1000, approved November 4, 2008).]

West Virginia

West Virginia Code §16-2F-7. Article not to be construed to require abortion.

Nothing in this article, nor in any order issued pursuant thereto, shall require that a physician perform an abortion or that any person be required to assist in the performance of an abortion if such physician or person, for any reason, medical or otherwise, does not wish to perform or assist in such abortion.

Wisconsin

Wisconsin Statutes 253.09 Abortion refused; no liability; no discrimination.

253.09(1) No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

253.09(2) No hospital or employee of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

253.09(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

253.09(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require: 253.09(4)(a) (a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if the individual's performance or assistance in the performance of such a procedure would be contrary to the individual's religious beliefs or moral convictions; or 253.09(4)(b) (b) Such entity to:

(b)1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

(b)2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

253.09 - ANNOT.History: 1973 c. 159; Stats. 1973 s. 140.275; 1973 c. 336 s. 54; Stats. 1973 s. 140.42; 1979 c. 34; 1993 a. 27 s. 222; Stats. 1993 s. 253.09; 1993 a. 482.

441.06(6)

(6) No person licensed as a registered nurse under this section is liable for any civil damages resulting from his or her refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person, if the refusal is based on religious or moral precepts.

441.06 - ANNOT. History: 1971 c. 125, 215; 1973 c. 159; 1975 c. 39, 199; 1977 c. 29, 164; 1979 c. 34, 162; 1987 a. 27, 264; 1991 a. 39.

448.03(5)

(5) Civil liability; certain medical procedures and reports.

448.03(5)(a)

(a) No person licensed or certified under this subchapter shall be liable for any civil damages resulting from such person's refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person if such refusal is based on religious or moral precepts.

Wyoming

35-6-105. Private institutions not required to perform abortions; no liability for refusal to perform abortion.

No private hospital, clinic, institution or other private facility in this state is required to admit any patient for the purpose of performing an abortion nor to allow the performance of an abortion therein. The private hospital, clinic, institution or any other private facility shall inform any prospective patient seeking an abortion of its policy not to participate in abortion procedures. No cause of action shall arise against any private hospital, clinic, institution or any other private facility for refusing to perform or allow an abortion.

35-6-106. Persons not required to perform abortion; no civil liability for refusal; sanctions or discrimination for refusal forbidden.

No person shall, in any way, be required to perform or participate in any abortion or in any act or thing which accomplishes or performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or human embryo. The refusal of any person to do so is not a basis for civil liability to any person. No hospital, governing board or any other person, firm, association or group shall terminate the employment of, alter the position of, prevent or impair the practice or occupation of, or impose any other sanction or otherwise discriminate against any person who refuses to perform or participate in any abortion or in any act or thing which accomplishes, performs or assists in accomplishing or performing a human miscarriage, euthanasia or any other death of a human fetus or embryo.

■ Refusing to Provide Health Services

BACKGROUND: Almost every state has a policy explicitly allowing some health care professionals or certain institutions to refuse to provide or participate in abortion, contraceptive services or sterilization services. Even in states without explicit refusal statutes, an individual health care professional's actions may be legally protected by statutes prohibiting discrimination against employees, based on their religious objections. While some of the institutional policies are limited to private, or even religious, health care institutions, others apply to all institutions providing health care. (At the federal level, health care institutions and providers may refuse to participate in abortion services on the basis of their religious or moral beliefs.)

A few states have enacted laws that specifically allow pharmacists or pharmacies to refuse to provide health care due to religious or moral objections. Several other states have broadly worded refusal clause statutes that might protect pharmacists or pharmacies from liability for their refusal. (See [Emergency Contraception](#).)

HIGHLIGHTS:

- 46 states allow some health care providers to refuse to provide abortion services.
 - All of these states permit individual health care providers to refuse to provide abortion services.
 - 45 states allow health care institutions to refuse to provide abortion services, 15 limit the exemption to private health care institutions and 1 state allows only religious health care entities to refuse to provide such care.
- 14 states allow some health care providers to refuse to provide services related to contraception.
 - 9 states allow individual health care providers to refuse to provide services related to contraception
 - 5 states explicitly permit pharmacists to refuse to dispense contraceptives. (5 additional states have broad refusal clauses that do not specifically include pharmacists, but may apply to them.)
 - 1 state explicitly permits pharmacies to refuse to dispense contraceptives.
 - 4 states have broad refusal clauses that do not specifically include pharmacies, but may apply to them.
 - 9 states allow health care institutions to refuse to provide services related to contraception, 6 states limit the exemption to private entities.
- 18 states allow some health care providers to refuse to provide sterilization services.
 - 17 states allow individual health care providers to refuse to provide sterilization services.
 - 16 states allow health care institutions to refuse to provide sterilization services; 4 limit the exemption to private entities.



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CONTINUED

POLICIES ALLOWING PROVIDERS TO REFUSE

STATE	ABORTION		CONTRACEPTION				STERILIZATION	
	Individual Providers	Institutions	Individual Providers	Pharmacists	Pharmacies	Institutions	Individual Providers	Institutions
Alaska	X	Private						
Arizona	X ^ψ	X ^ψ	§	§	§	§		
Arkansas	X	X	X	X	*	Private	X	X
California	X	Religious		†				
Colorado	X	X	X	*	*	Private		
Connecticut	X							
Delaware	X	X						
Florida	X	X	X	*				
Georgia	X	X		X			X	X
Hawaii	X	X						
Idaho	X	X	X	X			X	X
Illinois	X	Private	X	*	‡	X	X	X
Indiana	X	Private						
Iowa	X	Private						
Kansas	X	X					X	X
Kentucky	X	X					X	
Louisiana	X	X						
Maine	X	X	X	*	*	Private	X	X
Maryland	X	X					X	X
Massachusetts	X	Private				Private	X	Private
Michigan	X	X						
Minnesota	X	Private						
Mississippi	X	X	X	X	X	X	X	X
Missouri	X	X						
Montana	X	Private					X	Private
Nebraska	X	X						
Nevada	X	Private						
New Jersey	X	Private					X	Private
New Mexico	X	X						X
New York	X	X						
North Carolina	X	X						
North Dakota	X	X						
Ohio	X	X						
Oklahoma	X	X						
Oregon	X	Private						
Pennsylvania	X	Private					X	Private
Rhode Island	X	X					X	
South Carolina	X	Private						
South Dakota	X	X		X				
Tennessee	X	X	X	*	*	Private		
Texas	X	Private						
Utah	X	Private						
Virginia	X	X						
Washington	X	X	X		‡	X	X	X
West Virginia							X	X
Wisconsin	X	X			Ω		X	X
Wyoming	X	Private						
TOTAL	46	45	9	5	1	9	17	16

Note: Unless indicated, the right to refuse applies to all institutions— private, religious and public.

§ Temporarily enjoined; law not in effect pending the outcome of litigation.

ψ An expansion of the state's abortion refusal clause is temporarily enjoined pending the outcome of litigation; the prior law is in effect.

* A broadly worded refusal clause may apply.

† Pharmacists have a duty to dispense valid prescriptions and can only refuse to dispense a prescription, including contraceptives, when their employers approves the refusal and the woman can still access her prescription in a timely manner.

‡ Pharmacies are required to dispense valid prescriptions and in Illinois and Washington deliver FDA-approved drugs, such as emergency contraception.

Ω State law requires pharmacies to fill valid contraceptive prescriptions.

FOR MORE INFORMATION:

For information on state legislative and policy activity, click on [Guttmacher's Monthly State Update](#), and for state-level information and data on reproductive health issues, click on [Guttmacher's State Center](#). To see state-specific abortion information, click on [State Facts About Abortion](#) and [Guttmacher's Data Center](#).

Sonfield A, [Delineating the obligations that come with conscientious refusal: a question of balance](#), *Guttmacher Policy Review*, 2009, 12(3):6–10.

Sonfield A, [Proposed 'conscience' regulation opposed widely as threat to reproductive health and beyond](#), *Guttmacher Policy Review*, 2008, 11(4):17–19.

Sonfield A, [Provider refusal and access to reproductive health services: approaching a new balance](#), *Guttmacher Policy Review*, 2008, 11(2):2–6.

Guttmacher Institute, [Striking a balance between a provider's right to refuse and a patient's right to receive care](#), 2005.

Dailard C, [Beyond the issue of pharmacist refusals: pharmacies that won't sell emergency contraceptives](#), *The Guttmacher Report on Public Policy*, 2005, 8(3):10–12.

Sonfield A, [Rights vs. responsibilities: professional standards and provider refusals](#), *The Guttmacher Report on Public Policy*, 2005, 8(3):7–9.

Sonfield A, [New refusal clauses shatter balance between provider 'conscience,' patient needs](#), *The Guttmacher Report on Public Policy*, 2004, 7(3):1–3.

Gold RB, [Future uncertain for Catholic plans' creative approaches to providing contraceptive access](#), *The Guttmacher Report on Public Policy*, 2000, 3(6):1–2 & 14.

Gold RB and Sonfield A, [Refusing to participate in health care: a continuing debate](#), *The Guttmacher Report on Public Policy*, 2000, 3(1):8–11.

Dailard C, [State contraceptive coverage laws: creative responses to questions of 'conscience'](#), *The Guttmacher Report on Public Policy*, 1999, 2(4):1–2 & 14.

Cohen SA, [Objections, confusion among pharmacists threaten access to emergency contraception](#), *The Guttmacher Report on Public Policy*, 1999, 2(3):1–3.

Gold RB, [Contraceptive coverage: toward ensuring access while respecting conscience](#), *The Guttmacher Report on Public Policy*, 1998, 1(6):1–2 & 14.

Donovan P, [When plans opt out: family planning access in Medicaid managed care](#), *The Guttmacher Report on Public Policy*, 1998, 1(4):8–11.

Gold RB, [Conscience makes a comeback in the age of managed care](#), *The Guttmacher Report on Public Policy*, 1998, 1(1):1–2.



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Pharmacist Conscience Clauses: Laws and Legislation

Updated October 2010

Health provider "refusal clauses" (also known as "conscience clauses") were first enacted in response to the United States Supreme Court's decision in the Roe v. Wade case, 410 U.S. 113 (1973). Roe v. Wade was the landmark decision establishing that most laws against abortion violate a constitutional right to privacy, overturning all state laws outlawing or restricting abortion. Some states have subsequently proposed legislation and passed laws designed to allow doctors and other direct providers of health care to refuse to perform or assist in an abortion, and hospitals to refuse to allow abortion on their premises. Now, the issue is expanding as pharmacists are refusing to fill emergency contraception and contraception prescriptions. This movement resulted in the term "conscience clause," which gives pharmacists the right to refuse to perform certain services based on a violation of personal beliefs or values. Most of the debate revolves around a pharmacist dispensing emergency contraception. Emergency contraception is used to prevent a pregnancy, not terminate a pregnancy, and is a general term used to describe several different types of birth control pills that are used in increased doses within 72 hours of unprotected intercourse. Emergency contraception is not the same thing as Mifeprex, which is the brand name of mifepristone in the United States and is sometimes referred to as non-surgical abortion, medical abortion, or RU-486. Pharmacists do not play a role in administering these medications.

In some states, legislators are introducing bills that would explicitly grant pharmacists the right to refuse to dispense drugs related to contraception on moral grounds. Other state legislators are introducing legislation that would require pharmacies to fill any legal prescription for birth control, much like Governor Blagojevich's emergency rule in Illinois, which requires pharmacies to provide the morning after pill. Four States (**Arkansas, Georgia, Mississippi, and South Dakota**) have passed laws allowing a pharmacist to refuse to dispense emergency contraception drugs. **Illinois** passed an emergency rule that requires a pharmacist to dispense FDA approved contraception. **Colorado, Florida, Maine** and **Tennessee** have broad refusal clauses that do not specifically mention pharmacists.

California pharmacists have a duty to dispense prescriptions and can only refuse to dispense a prescription, including contraceptives, when their employer approves the refusal and the woman can still access her prescription in a timely manner.

New Jersey's law (effective November 2007), prohibits pharmacists for refusing to fill prescriptions solely on moral, religious or ethical grounds.

Conscience Clause Laws (allowing the refusal to fill)

Arkansas § 20-9-1001 allows certain individuals or entities to refuse to perform abortion services and provide or dispense contraceptives in all or most circumstances.

California SB 644 Chapter No. 417 prohibits a health care licentiate from obstructing a patient in obtaining a prescription drug or device and would require the licentiate to dispense drugs and devices pursuant to a lawful prescription or order except in specified circumstances, including on ethical, moral, or religious grounds asserted by the licentiate.

Colorado Rev. Stat. 25-6-102 states that no private institution, its employees, or physicians may be held liable for refusing to dispense contraceptive supplies, procedures or information if their refusal is based on a moral or religious objection to such activities.

Florida 2003 Stat. XXIX 381.0051 states that physicians or other people may not be held liable for refusing to dispense contraceptive or family planning devices, services or information.

Georgia Admin. Code § 480-5-.03 provides that a pharmacist shall not be required to fill a prescription for an emergency contraceptive drug; provides that such refusal shall not be the basis for any claim for damages; provides for the duration of the effectiveness of the written objection; provides for related matters; repeals conflicting laws.

Idaho Code § 18-611 provides that no health care professional shall be required to provide any health care service that violates his or her conscience.

Illinois requires pharmacies to dispense contraception. Gov. Rod Blagojevich (D) issued emergency rules that require pharmacies in the state to dispense FDA-approved contraceptives. If the pharmacy does not have the drug or a suitable substitute in stock, then the pharmacy must order the medication through standard procedures, transfer the prescription to another local pharmacy or return the prescription to the patient. The emergency rules will be in effect only for 150 days, after which the state is expected to begin the normal rulemaking process in order to make the requirement rule permanent.

Maine Rev. Stat. tit. 22, 1903 (1973) gives physicians and agents of medical and related facilities the right to refuse to provide family planning services when such actions would interfere with moral or religious beliefs.

Mississippi Code Ann. § 41-41-215 permits health care providers, including pharmacists or other pharmacy employees, counselors, social workers, health insurers and health care facilities to refuse to provide [any] medical services, including counseling and referral, on religious or ethical grounds (SB 2619).

South Dakota Codified Laws § 36-11-70 allows pharmacists the right to refuse to provide services.

Tennessee Code Ann. 68-34-104 allows physicians or any agent of such an entity to refuse to offer contraceptive services, supplies, or information if it interferes with a moral or religious belief. States that physicians or other agents may not be held liable for this refusal.

Washington RCW 48.43.065 allows for no individual health care provider, religiously sponsored carrier, or health care facility be required by law or contract in any circumstances to participate in the provision of or payment for a specific service if they object to so doing for reason of conscience or religion.

Also: On June 1, 2006 the Washington Board of Pharmacy approved proposed rule language regarding a pharmacist's responsibilities in dispensing a lawful prescription. This language would amend **Washington Admin. Code 246-863-095** to prohibit a pharmacist from delegating the decision not to dispense prescriptions for any reason.

Sources: National Conference of State Legislatures; Denver, Colorado.

Compiled by NCSL Health Program, Denver.

Note: List may not be comprehensive, but is representative of state laws that exist. NCSL appreciates additions and corrections.

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Obama administration replaces controversial 'conscience' regulation for health-care workers

By Rob Stein
Washington Post Staff Writer
Friday, February 18, 2011; 1:27 PM

The Obama administration rescinded most of a federal regulation Friday designed to protect health workers who refuse to provide care they find objectionable on personal or religious grounds.

THIS STORY

Obama administration replaces controversial 'conscience' regulation for health-care workers

May 11, 2009: On Faith: "Conscience Rules" Ignore Patient

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The Health and Human Services Department eliminated nearly the entire rule put into effect by the administration of President George W. Bush during his final days in office that was widely interpreted as allowing such workers to opt out of a broad range of medical services, such as providing the emergency contraceptive Plan B, treating gay men and lesbians and prescribing birth control to single women.

Calling the Bush-era rule "unclear and potentially overbroad in scope," the new, much narrower version essentially leaves in place only long-standing federal protections for workers who object to performing abortions or sterilizations. It also retains the Bush rule's formal process for workers to file complaints.

"The department supports clear and strong conscience protections for health-care providers who are opposed to performing abortions," the rule states.

The new regulation, which goes into effect in 30 days, also ensures that no federal money can be used to "support coercive or discriminatory policies or practices in violation of federal law."

The Bush regulation, if enforced, would have cut off federal funding for thousands of entities, including state and local governments, hospitals, health plans and clinics, if they did not accommodate doctors, nurses, pharmacists or other employees who refused to participate in care they felt violated their personal, moral or religious beliefs.

The rule was sought by conservative groups, which argued that workers were increasingly being fired, disciplined or penalized in other ways for trying to exercise their "right of conscience."

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Health Workers' 'Conscience' Rule Set to Be Voided

By Rob Stein
Washington Post Staff Writer
Saturday, February 28, 2009

The Obama administration's move to rescind broad new job protections for health workers who refuse to provide care they find objectionable triggered an immediate political storm yesterday, underscoring the difficulties the president faces in his effort to find common ground on anything related to the explosive issue of abortion.

The administration's plans, revealed quietly with a terse posting on a federal Web site, unleashed a flood of heated reaction, with supporters praising the proposal as a crucial victory for women's health and reproductive rights, and opponents condemning it as a devastating setback for freedom of religion.

Perhaps most tellingly, the move drew deep disappointment from some conservatives who have been hopeful about working with the administration to try to defuse the debate on abortion, long one of the most divisive political issues.

"This is going to be a political hit for the administration," said Joel Hunter, senior pastor of the Northland Church in Longwood, Fla., whom Obama recently named to his Advisory Council on Faith-Based and Neighborhood Partnerships. "This will be one of those things that kind of says, 'I knew it. They talk about common ground, but really what they want is their own way.'"

Administration officials stressed that the proposal will be subject to 30 days of public comment, which could result in a compromise. They said they remain committed to seeking a middle ground but acknowledged that will not always be possible.

"We recognize we are not going to be able to agree on every issue," said an administration official, who spoke on the condition of anonymity because the process has just begun. "But there remains a substantive area of common ground, and we continue to believe we can make progress and will make progress."

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The announcement capped a week when anger among conservatives was already running high because of the ambitious progressive agenda outlined in the administration's proposed \$3.6 trillion budget.

The debate centers on a Bush administration regulation, enacted in December, that cuts off federal funding for thousands of state and



The Rev. Joel Hunter said the move raises skepticism about the White House's talk of common ground. (John Raoux - AP)

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"Conscience Rules" Ignore Patient

By Sally Steenland

senior policy adviser, Center for American Progress

What happens when consciences collide? In the field of health care, the provider's conscience is given great consideration. For over 30 years, we've had federal and state laws that allow health care providers to refuse to provide certain treatments that they object to on religious or moral grounds. In fact, the public debate is usually framed as one of provider conscience vs. patient access. The problem is that this frame ignores the conscience of the patient.

Let's say a patient needs a prescription for contraception. She is a mother of two and takes birth control pills in order to be a spiritually and emotionally responsible parent. Her decision is one of conscience. When a pharmacist refuses to fill her prescription for religious reasons, he or she is defying the patient's conscience in favor of his or her own. That is wrong.

In a pluralistic democracy where people hold different beliefs and values, one conscience should never trump all others. Instead, we must find ways to negotiate conflicting consciences so that religious liberty is respected and health care is safeguarded.

The conflict over conscience refusals has been in the news lately because the Obama administration is rescinding a harmful Bush rule that took effect his last day in office. The Bush rule, which is currently in effect, goes too far in expanding provider refusals.

The rule jeopardizes patient health and well-being, and allows the religious beliefs of the provider to be imposed on the conscience of the patient. And not just that. The rule is also unnecessary because there are existing laws on the books to protect the religious beliefs of health care providers. The good news is that the new rule, soon to be issued by the Obama administration, should set a fairer balance between the rights, needs and responsibilities of providers and patients.

In some areas, this is not overly difficult to do. In large pharmacies, medical practices, and hospitals, for instance, provisions can be made to meet the needs of the patient and of the health care provider. However, in areas where there are fewer providers, those who refuse to provide treatment place a great burden on patients. One could also argue that they place a burden on their own professional conscience and ethical responsibility because of their chosen profession.

It must be said that most of the "conscience" issues being debated involve women's reproductive health, such as abortion, sterilization and contraception. It must also be said that one rarely hears in public debates a clear argument supporting women's moral agency, or conscience, as they make a difficult decision. For some women, the moral decision is to continue their pregnancy. For others, the moral decision is to have an abortion.

It is important to acknowledge this reality if we want to move forward and find real solutions and common ground. It is also important to look beyond reproductive health issues regarding conscience clauses, since other issues, such as end-of-life care and genetic technologies, increasingly present difficult moral choices.

As we debate and decide these issues, it is important not to demonize opposing views or claim a monopoly on morality. It is also important to put systems in place so that cases are not decided on an ad-hoc basis which can jeopardize patient care. Finally, it is important to be persistent in our search for solutions and common ground, no matter how difficult it may



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Protections Set for Antiabortion Health Workers

Opponents Denounce Proposed Regulation Allowing Federal Officials to Pull Funding

By [Rob Stein](#)
Washington Post Staff Writer
Friday, August 22, 2008; Page A01

The Bush administration yesterday announced plans to implement a controversial regulation designed to protect doctors, nurses and other health-care workers who object to abortion from being forced to deliver services that violate their personal beliefs.

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- Protections Set for Antiabortion Health Workers
- Birth Control Fears Addressed
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The rule empowers federal health officials to pull funding from more than 584,000 hospitals, clinics, health plans, doctors' offices and other entities if they do not accommodate employees who refuse to participate in care they find objectionable on personal, moral or religious grounds.

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"People should not be forced to say or do things they believe are morally wrong," [Health and Human Services Secretary Mike Leavitt](#) said. "Health-care workers should not be forced to provide services that violate their own conscience."

The proposed regulation, which could go into effect after a 30-day comment period, was welcomed by conservative groups, abortion opponents and others as necessary to safeguard workers from being fired, disciplined or penalized in other ways.

Women's health advocates, family planning advocates, abortion rights activists and others, however, condemned the regulation, saying it could create sweeping obstacles to a variety of health services, including abortion, family planning, end-of-life care and possibly a wide range of scientific research.

"It's breathtaking," said Robyn S. Shapiro, a bioethicist and lawyer at the Medical College of Wisconsin. "The impact could be enormous."

The regulation drops the most controversial language in a draft version that would have explicitly defined abortion for the first time in a federal law or regulation as anything that interfered with a fertilized egg after conception. But both supporters and critics said the regulation remains broad enough to protect pharmacists, doctors, nurses and others from providing birth control pills, Plan B emergency contraception and other forms of

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Birth Control Fears Addressed HHS Chief Says Draft Rule Is Not Redefining Abortion

By Rob Stein
Washington Post Staff Writer
Saturday, August 9, 2008

Health and Human Services Secretary Mike Leavitt has denied that a controversial draft regulation would redefine common birth control methods as abortion and protect the rights of doctors and other health-care workers who refuse to provide them.

THIS STORY

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In a statement posted on his [blog](#) on Thursday, Leavitt appeared to try to allay fears that the proposed regulation would create sweeping new obstacles to women seeking a variety of commonly used contraceptives, such as birth control pills and the Plan B emergency contraceptive.

"An early draft of the regulation found its way into public circulation before it had reached my review," Leavitt said. "It contained words that lead some to conclude my intent is to deal with the subject of contraceptives, somehow defining them as abortion. Not true."

Leavitt's statement, however, failed to alleviate concerns among members of Congress, family planning advocates, women's health activists and others.

"It does not alleviate my concerns at all," said Jill Morrison of the National Women's Law Center, noting that a major section of the draft regulation titled "The Problem" cites state laws designed to make sure that women have access to birth control pills and Plan B. "I will wait to see if a 'clean' version of the rule is released for publication in the Federal Register, and then I will believe it."



Mike Leavitt blogged on the issue. (Eugene Hoshiko - AP)

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The draft regulation would deny federal funding to any hospital, clinic, health plan or other entity that does not accommodate employees who want to opt out of participating in care that runs counter to their personal convictions.

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Workers' Religious Freedom vs. Patients' Rights

Proposal Would Deny Federal Money if Employees Must Provide Care to Which They Object

By Rob Stein
Washington Post Staff Writer
Thursday, July 31, 2008

A Bush administration proposal aimed at protecting health-care workers who object to abortion, and to birth-control methods they consider tantamount to abortion, has escalated a bitter debate over the balance between religious freedom and patients' rights.

THIS STORY

- Protections Set for Antiabortion Health Workers
- Birth Control Fears Addressed
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The Department of Health and Human Services is reviewing a draft regulation that would deny federal funding to any hospital, clinic, health plan or other entity that does not accommodate employees who want to opt out of participating in care that runs counter to their personal convictions, including providing birth-control pills, IUDs and the Plan B emergency contraceptive.

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Conservative groups, abortion opponents and some members of Congress are welcoming the initiative as necessary to safeguard doctors, nurses and other health workers who, they say, are increasingly facing discrimination because of their beliefs or are being coerced into delivering services they find repugnant.

But the draft proposal has sparked intense criticism by family planning advocates, women's health activists, and members of Congress who say the regulation would create overwhelming obstacles for women

seeking abortions and birth control.

There is also deep concern that the rule could have far-reaching, but less obvious, implications. Because of its wide scope and because it would -- apparently for the first time -- define abortion in a federal regulation as anything that affects a fertilized egg, the regulation could raise questions about a broad spectrum of scientific research and care, critics say.

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Rule Shields Health Workers Who Withhold Care Based on Beliefs

By Rob Stein
Washington Post Staff Writer
Friday, December 19, 2008

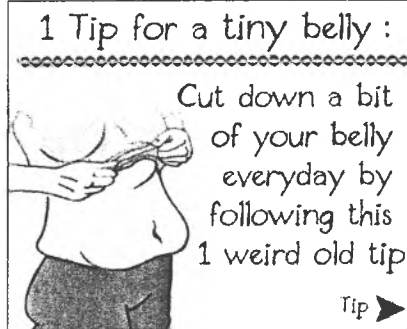
The Bush administration yesterday granted sweeping new protections to health workers who refuse to provide care that violates their personal beliefs, setting off an intense battle over opponents' plans to try to repeal the measure.

Critics began consulting with the incoming Obama administration on strategies to reverse the regulation as quickly as possible while supporters started mobilizing to fight such efforts.

The far-reaching regulation cuts off federal funding for any state or local government, hospital, health plan, clinic or other entity that does not accommodate doctors, nurses, pharmacists and other employees who refuse to participate in care they find ethically, morally or religiously objectionable. It was sought by conservative groups, abortion opponents and others to safeguard workers from being fired, disciplined or penalized in other ways.

But women's health advocates, family planning proponents, abortion rights activists and some members of Congress condemned the regulation, saying it will be a major obstacle to providing many health services, including abortion, family planning, infertility treatment, and end-of-life care, as well as possibly a wide range of scientific research.

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The 127-page rule, which was issued just in time to take effect in the 30 days before the change in administrations, is the latest that the administration is implementing before President Bush's term ends.

The "right of conscience" rule could become one of the first contentious tests for the Obama administration, which could seek to reverse the rule either by initiating a lengthy new rulemaking process or by supporting legislation already pending in Congress.

President-elect Barack Obama's transition team did not specifically address the rule yesterday, but spokesman Nick Shapiro issued a statement that said Obama "will review all eleventh-hour regulations and will address them once he is president." Obama criticized the regulation when it was proposed last summer.

Sen. Patty Murray (D-Wash.), who with Sen. Hillary Rodham Clinton (D-N.Y.) introduced a bill last month to repeal the rule, said: "We will not allow this rule to stand. It threatens the health and well-being of women and the rights of patients across the country." Similar legislation is pending in the House.

Donna Crane, policy director for NARAL Pro-Choice America, noted that Congress has a

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Values Play Into Treatment Recommendations, Study Finds

By Rob Stein
Washington Post Staff Writer
Thursday, February 8, 2007

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Many doctors believe they have the right not to tell patients about treatments that they object to on moral or religious grounds and to refuse to refer patients elsewhere for the care, according to the first study to examine physicians' views on such situations.

In the survey of 1,144 doctors nationwide, 8 percent said they had no obligation to present all possible options to patients, and 18 percent said they did not have to tell patients about other doctors who provide care they found objectionable.

Based on the findings, the researchers estimate that more than 40 million Americans may be seeing physicians who do not believe that they are obligated to disclose information about legal treatments the doctor objects to, and 100 million have doctors who do not feel the need to refer patients to another provider.

"They are a minority of doctors, but it's fairly substantial minority," said Farr A. Curlin, a bioethicist at the University of Chicago who led the study, published in today's issue of the New England Journal of Medicine.

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The survey was prompted by an intense debate over medical workers who refuse to deliver care that runs contrary to their moral or religious beliefs, asserting a "right of conscience" or "right of refusal." Some pharmacists, for example, refuse to fill prescriptions for birth control and emergency contraceptive "morning-after" pills. Some doctors and nurses refuse to participate in abortions, prescribe birth control pills or withdraw or withhold care from dying patients.

The refusals have led to bitter clashes between medical workers and patients around the country. Dozens of states have considered legislation that would either require medical workers to deliver all legal forms of care or protect those who refuse. The issue is expected to intensify as medicine continues to move into controversial areas, such as therapies based on embryonic stem cells.

Curlin and his colleagues mailed 12-page questionnaires to 2,000 physicians from all specialties in 2003 asking them if they had objections to three controversial practices -- sedating dying patients to the point of unconsciousness; prescribing birth control to teenagers without parental consent; and performing abortions after failed contraception.

Of the 1,144 who responded, 17 percent objected to "terminal sedation," 42 percent objected to providing birth control to teens without parents' consent and 52 percent objected to abortion after failed contraception.

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A Medical Crisis of Conscience Faith Drives Some To Refuse Patients Medication or Care

By Rob Stein
Washington Post Staff Writer
Sunday, July 16, 2006; Page A01

In Chicago, an ambulance driver refused to transport a patient for an fertility specialists rebuffed a gay woman seeking artificial insemination pharmacist turned away a rape victim seeking the morning-after pill.

Around the United States, health workers and patients are clashing with giving care that they feel violates their beliefs, sparking an intense, core debate over religious freedom vs. patients' rights.

Legal and political battles have followed. Patients are suing and filing complaints after being spurned. Workers are charging religious discrimination after being disciplined or fired. Congress and more than a dozen states are considering laws to compel workers to provide care -- or, conversely, to shield them from punishment.

Proponents of a "right of conscience" for health workers argue that there is nothing more American than protecting citizens from being forced to violate their moral and religious values. Patient advocates and others point to a deep tradition in medicine of healers having an ethical and professional responsibility to put patients first.

The issue is driven by the rise in religious expression and its political prominence in the United States, and by medicine's push into controversial new areas. And it is likely to intensify as doctors start using embryonic stem cells to treat disease, as more states legalize physician-assisted suicide and as other wrenching issues emerge.

"What constitutes an ethical right of conscience in medicine, and what are the limits?" asked Nancy Berlinger of the Hastings Center, a bioethics think tank. "This keeps getting harder and harder for us."

For Debra Shipley, her duties as a nurse began to conflict with her Christian faith when the county health clinic where she worked near Memphis required she dispense the morning-after pill.

"I felt like my religious liberties were being violated," said Shipley, 49, of Atoka, Tenn. "I could not live with myself if it did it. I answer to God first and foremost."

But Paige Gerson, 37, of Leawood, Kan., believes doctors and nurses should never let their personal values interfere with patient care. Her doctor refused to give her the morning-after pill, citing religious objections.

"I was incredibly angry and just scared to death," Gerson said. "I think it's absolutely wrong

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Health Workers' Choice Debated

Proposals Back Right Not to Treat

By Rob Stein
Washington Post Staff Writer
Monday, January 30, 2006

More than a dozen states are considering new laws to protect health workers who do not want to provide care that conflicts with their personal beliefs, a surge of legislation that reflects the intensifying tension between asserting individual religious values and defending patients' rights.

About half of the proposals would shield pharmacists who refuse to fill prescriptions for birth control and "morning-after" pills because they believe the drugs cause abortions. But many are far broader measures that would shelter a doctor, nurse, aide, technician or other employee who objects to any therapy. That might include in-vitro fertilization, physician-assisted suicide, embryonic stem cells and perhaps even providing treatment to gays and lesbians.

Because many legislatures have just convened, advocates on both sides are predicting that the number debating such proposals will increase. At least 18 states are already considering 36 bills.

"It's already a very hot issue," said Edward R. Martin Jr. of the Americans United for Life, who is advising legislators around the country pushing such bills. "I think it's going to get even hotter, for lots of reasons and in lots of places."

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The flurry of political activity is being welcomed by conservative groups that consider it crucial to prevent health workers from being coerced into participating in care they find morally repugnant -- protecting their "right of conscience" or "right of refusal."

"This goes to the core of what it means to be an American," said David Stevens, executive director of the Christian Medical & Dental Associations. "Conscience is the most sacred of all property. Doctors, dentists, nurses and other health care workers should not be

forced to violate their consciences."

The swell of propositions is raising alarm among advocates for abortion rights, family planning, AIDS prevention, the right to die, gays and lesbians, and others who see the push as the latest manifestation of the growing political power of social conservatives.

"This is a very significant threat to patients' rights in the United States," said Lois Utley of the MergerWatch project, who is helping organize a conference in New York to plot a counterstrategy. "We need to protect the patient's right to use their own religious or ethical values to make medical decisions."

Both sides agree that the struggle between personal beliefs and professional medical responsibilities is likely to escalate as more states consider approving physician-assisted

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