

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/9/11
A Bill

HOUSE BILL 1983

5 By: Representative D. Meeks
6

7 **For An Act To Be Entitled**

8 AN ACT TO CREATE THE HEALTHCARE FREEDOM OF CONSCIENCE
9 ACT; AND FOR OTHER PURPOSES.
10

11
12 **Subtitle**

13 AN ACT TO CREATE THE HEALTHCARE FREEDOM
14 OF CONSCIENCE ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 20 is amended to add an additional
20 chapter to read as follows:
21

22 CHAPTER 3

23 HEALTHCARE FREEDOM OF CONSCIENCE ACT
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25 20-3-101. Title.

26 This chapter shall be known and may be cited as the "Healthcare Freedom
27 of Conscience Act".
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29 20-3-102. Legislative findings – Purposes.

30 (a) The General Assembly finds that:

31 (1) It is the public policy of Arkansas to respect and protect
32 the fundamental right of conscience of all individuals who provide healthcare
33 services; and

34 (2) Without comprehensive protection, healthcare rights of
35 conscience may be violated in various ways, such as harassment, demotion,
36 salary reduction, transfer, termination, loss of staffing privileges, denial



1 of aid or benefits, and refusal to license or refusal to certify.

2 (b)(1) It is the purpose of this chapter to protect as a basic civil
3 right the right of all healthcare providers, healthcare institutions, and
4 healthcare payers to decline to counsel, advise, pay for, provide, perform,
5 assist, or participate in providing or performing healthcare services that
6 violate their consciences.

7 (2) Healthcare services may include without limitation abortion,
8 artificial birth control, artificial insemination, assisted reproduction,
9 human cloning, euthanasia, human embryonic stem-cell research, fetal
10 experimentation, assisted suicide, and sterilization.

11 (c) It is the purpose of this chapter to prohibit all forms of
12 discrimination, disqualification, coercion, disability, or liability upon
13 such healthcare providers, healthcare institutions, and healthcare payers
14 that decline to perform any healthcare service that violates their
15 consciences.

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17 20-3-103. Definitions.

18 As used in this chapter:

19 (1)(A) "Conscience" means the religious, moral, or ethical
20 principles held by a healthcare provider, healthcare institution, or
21 healthcare payer.

22 (B) For purposes of this chapter, a healthcare
23 institution's or a healthcare payer's conscience shall be determined by
24 reference to its existing or proposed religious, moral, or ethical
25 guidelines, mission statement, constitution, bylaws, articles of
26 incorporation, regulations, or other relevant documents;

27 (2) "Employer" means an individual or entity that pays for or
28 provides health benefits or health insurance coverage as a benefit to its
29 employees, whether through a third party, a health maintenance organization,
30 a program of self insurance, or some other means;

31 (3) "Healthcare institution" means a public or private
32 organization, corporation, partnership, sole proprietorship, association,
33 agency, network, joint venture, or other entity that is involved in providing
34 healthcare services, including without limitation:

35 (A) An ambulatory surgical center;

36 (B) A clinic;

- 1 (C) A hospital;
- 2 (D) A medical center;
- 3 (E) A medical training facility;
- 4 (F) A nursing home;
- 5 (G) A nursing school;
- 6 (H) A pharmacy;
- 7 (I) A private physician's office;
- 8 (J) A university medical school; and
- 9 (K) Other institutions or locations in which healthcare
- 10 services are provided;

11 (4) "Healthcare payer" means any entity or employer that
12 contracts for, pays for, or arranges for the payment of, in whole or in part,
13 any healthcare service or product, including without limitation:

- 14 (A) A health maintenance organization;
- 15 (B) A health plan;
- 16 (C) An insurance company; and
- 17 (D) A management services organization;

18 (5) "Healthcare provider" means any individual who may be asked
19 to participate in any way in a healthcare service, including without
20 limitation:

- 21 (A) A clinic employee;
- 22 (B) A counselor;
- 23 (C) A hospital employee;
- 24 (D) A medical assistant;
- 25 (E) A nurse;
- 26 (F) A nurse's aide;
- 27 (G) A nursing home employee;
- 28 (H) A pharmacist;
- 29 (I) A pharmacy employee;
- 30 (J) A physician;
- 31 (K) A physician's assistant;
- 32 (L) A researcher;
- 33 (M) A social worker;
- 34 (N) A student;
- 35 (O) An applicant to a school of health care;
- 36 (P) Medical or nursing school faculty; or

1 (Q) Any other person who furnishes or assists in the
2 furnishing of healthcare services;

3 (6) "Healthcare service" means any phase of patient medical
4 care, treatment, or procedure, including without limitation:

5 (A) Conducting research;

6 (B) Counseling;

7 (C) Diagnosing or providing prognoses;

8 (D) Dispensing or administering any device, drug, or
9 medication;

10 (E) Instructing;

11 (F) Performing surgery;

12 (G) Performing therapy;

13 (H) Prescribing;

14 (I) Referring patients;

15 (J) Testing; or

16 (K) Other care or treatment rendered by healthcare
17 providers or healthcare institutions;

18 (7) "Participate" means to counsel, advise, provide, perform,
19 assist in, refer for, admit for purposes of providing, or participate in
20 providing any healthcare service or any form of such service; and

21 (8) "Payment" means to pay, contract for, or otherwise arrange
22 for the payment of in whole or in part.

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24 20-3-104. Prohibition.

25 A person, an institution, a corporation, or a government entity shall
26 not discriminate, disqualify, coerce, or cause a disability or liability upon
27 a healthcare provider, healthcare institution, or healthcare payer that
28 declines to *participate in* a healthcare service that violates the conscience
29 of the healthcare provider, healthcare institution, or healthcare payer.

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31 20-3-105. Civil remedies.

32 (a) A civil action for damages or injunctive relief, or both, may be
33 brought for a violation of this subchapter.

34 (b)(1) A person, an individual, an association, an agency, a
35 corporation, an entity, or a *healthcare* institution injured by a public or
36 private person, individual, association, agency, corporation, or entity by

1 reason of conduct prohibited by this subchapter may bring a civil action.

2 (2) A court of competent jurisdiction may order injunctive

3 relief in a civil action under this subchapter.

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/s/D. Meeks