

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1898

5 By: Representative D. Meeks  
6

## For An Act To Be Entitled

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

### Subtitle

11 TO CREATE THE HEALTHCARE FREEDOM OF  
12 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:

#### CHAPTER 3

#### HEALTHCARE PROVIDER ETHICS

#### Subchapter 1 – Healthcare Freedom of Conscience Act

#### 20-3-101. Title.

25 This chapter shall be known and may be cited as the "Healthcare Freedom  
26 of Conscience Act".  
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#### 20-3-102. Definitions.

28 As used in this chapter:

29 (1) "Activity" means:

30 (A) Artificial birth control;

31 (B) Artificial insemination;

32 (C) Assisted reproduction;

33 (D) Human embryonic stem-cell research; and

34 (E) Sterilization;  
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1           (2)(A) "Conscience" means the religious, moral, or ethical  
2 principles sincerely held by any healthcare professional or healthcare  
3 institution.

4           (B) For purposes of this section, a healthcare  
5 institution's conscience shall be determined by reference to its religious,  
6 moral, or ethical guidelines, mission statement, constitution, bylaws,  
7 articles of incorporation, regulations, or other relevant documents;

8           (3) "Healthcare institution" means a public or private entity  
9 licensed or certified to provide healthcare services in the State of  
10 Arkansas;

11           (4) "Healthcare professional" means a person licensed,  
12 certified, or registered by the State of Arkansas to deliver health care;

13           (5) "Participate" means to provide, perform, assist in, admit  
14 for purposes of providing, or participate in providing any activity; and

15           (6) "Religious, moral, or ethical principles", "sincerely held",  
16 "reasonably accommodate", and "undue hardship" mean the same as under Title  
17 VII of the Federal Civil Rights Act of 1964, 41 U.S.C. § 2000e, et. seq.

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19           20-3-103. Healthcare Institution Conscience Protection.

20           (a) A healthcare institution may choose not to admit a patient or may  
21 refuse to allow the use of the healthcare institution's facilities for the  
22 performance of an activity that is contrary to the healthcare institution's  
23 conscience.

24           (b) No healthcare institution shall be liable civilly, criminally, or  
25 administratively for choosing not to admit a patient or refusing to allow the  
26 use of the healthcare institution's facilities for the performance of an  
27 activity that is contrary to the healthcare institution's conscience as  
28 provided in subsection (a) of this section.

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30           20-3-104. Healthcare Professional Conscience Protection.

31           (a) A healthcare professional may refuse to participate in an activity  
32 that violates the healthcare professional's conscience if:

33           (i) The healthcare professional provides advance  
34 written notice to his or her employer and each healthcare institution in  
35 which the healthcare professional provides services of the specific activity  
36 to which the healthcare professional objects; and

1                   (ii) The healthcare professional's employer and each  
2 of the healthcare institutions in which the healthcare professional provides  
3 services can provide without creating undue hardship a reasonable  
4 accommodation of the healthcare professional's objections.

5                   (b) Except under subsection (c) of this section, a healthcare  
6 institution and an employer of healthcare professionals shall reasonably  
7 accommodate the conscience rights of a healthcare professional unless the  
8 healthcare institution or employer can demonstrate that the accommodation  
9 constitutes an undue hardship.

10                   (c) An employer shall not discriminate against a healthcare  
11 professional based upon his or her refusal to participate in an activity that  
12 violates the healthcare professional's conscience unless the employer  
13 designates participation in an activity as a fundamental requirement for a  
14 position by providing to the health professional a written certification that  
15 the activity is directly related and essential to a core purpose of the  
16 employer.

17                   (d) A healthcare professional is not civilly, criminally, or  
18 administratively liable for declining to participate in an activity, except  
19 for life-threatening or emergency situations under subsection (e) of this  
20 section.

21                   (e) If a healthcare professional invokes a conscience right in a life-  
22 threatening or emergency situation in which no other healthcare professional  
23 capable of treating the emergency situation is available, the healthcare  
24 professional shall provide treatment and care until an alternate healthcare  
25 professional capable of treating the patient is found.

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27                   20-3-105. Applicability.

28                   This section does not affect a healthcare provider's or healthcare  
29 institution's right of refusal under § 20-16-601.