

Stricken language would be deleted from and underlined language would be added to present law.

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

As Engrossed: H3/9/11 H3/28/11

## A Bill

HOUSE BILL 1983

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 AN ACT TO CREATE THE HEALTHCARE FREEDOM  
12 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

#### CHAPTER 3

#### HEALTHCARE FREEDOM OF CONSCIENCE ACT

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

22 This chapter shall be known and may be cited as the "Healthcare Freedom  
23 of Conscience Act".  
24

##### 20-3-102. Legislative findings – Purposes.

##### (a) The General Assembly finds that:

25 (1) A health care professional's primary responsibility is to  
26 ensure that patients receive safe and appropriate medical care;  
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28 (2) It is the public policy of Arkansas to respect and protect  
29 the fundamental right of conscience of all individuals who provide healthcare  
30 services; and  
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32 (3) Without comprehensive protection, healthcare rights of  
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1 conscience may be violated in various ways, such as harassment, demotion,  
2 salary reduction, transfer, termination, loss of staffing privileges, denial  
3 of aid or benefits, and refusal to license or refusal to certify.

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

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

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15 20-3-103. Definitions.

16 As used in this chapter:

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

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

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

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

33 (A) An ambulatory surgical center;

34 (B) A clinic;

35 (C) A hospital;

36 (D) A medical center;

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

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

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

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

- 19                   (A) A clinic employee;
- 20                   (B) A counselor;
- 21                   (C) A hospital employee;
- 22                   (D) A medical assistant;
- 23                   (E) A nurse;
- 24                   (F) A nurse's aide;
- 25                   (G) A nursing home employee;
- 26                   (H) A pharmacist;
- 27                   (I) A pharmacy employee;
- 28                   (J) A physician;
- 29                   (K) A physician's assistant;
- 30                   (L) A researcher;
- 31                   (M) A social worker; or
- 32                   (N) Medical or nursing school faculty;

33                   (6) "Healthcare services " means:

- 34                   (A) Abortion;
- 35                   (B) Artificial insemination;
- 36                   (C) Assisted reproduction;

1 (D) Human cloning;

2 (E) Euthanasia;

3 (F) Human embryonic stem-cell research;

4 (G) Fetal experimentation;

5 (H) Assisted suicide; and

6 (I) Sterilization;

7 (7) "Participate" means to provide, perform, assist in, refer  
8 for, admit for purposes of providing, or participate in providing healthcare  
9 services under this chapter; and

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

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13 20-3-104. Prohibition.

14 (a) A person an institution, a corporation, or a government entity  
15 shall not discriminate, disqualify, coerce, or cause a disability or  
16 liability upon a healthcare provider, healthcare institution, or healthcare  
17 payer that declines to participate in a healthcare service that violates the  
18 conscience of the healthcare provider, healthcare institution, or healthcare  
19 payer.

20 (b) A healthcare provider may decline to participate in a healthcare  
21 service that violates his or her conscience if:

22 (1) The healthcare provider notifies his or her employer and  
23 each healthcare institution in which the healthcare provider provides  
24 services, in writing, of the healthcare services to which the healthcare  
25 provider objects;

26 (2) The healthcare provider's employer and each of the  
27 healthcare institutions in which the healthcare provider provides services  
28 can, without creating undue hardship, provide a reasonable accommodation of  
29 the healthcare provider's objection; and

30 (3)(A) The healthcare provider's employer and each of the  
31 healthcare institutions in which the healthcare provider provides services  
32 establish protocols that ensure that the patient is timely informed of all  
33 medical alternatives and is provided access to healthcare services despite  
34 the refusal of the healthcare provider to participate.

35 (B) Protocols under subdivision (b)(3)(A) of this section  
36 may provide access to healthcare services through referral to another

1 healthcare provider so long as the resulting delay is not detrimental to the  
2 health of the patient.

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*/s/D. Meeks*