

Hall of the House of Representatives

92nd General Assembly - Regular Session, 2019

Amendment Form

Subtitle of House Bill No. 1289

TO CREATE THE MEDICAL CONSCIENCE PROTECTION ACT.

Amendment No. 1 to House Bill 1289

Amend House Bill No. 1289 as originally introduced:

Add Senator K. Hammer as a cosponsor of the bill

AND

Page 1, delete line 36, and substitute the following:

"of healthcare practitioners and healthcare institutions"

AND

Page 2, delete lines 3 and 4, and substitute the following:

"of medical capabilities, along with the notion that healthcare practitioners and healthcare institutions are mere public utilities,"

AND

Page 2, delete lines 8 through 11, and substitute the following:

"of conscience of healthcare practitioners and healthcare institutions.

(b) It is the purpose of this subchapter to protect all healthcare practitioners and healthcare institutions from"

AND

Page 2, line 17, delete "the religious," and substitute "the deeply held religious,"

AND

Page 2, delete lines 18 and 19, and substitute the following:

"philosophical beliefs or principles of a healthcare practitioner or healthcare institution."

AND



Page 2, delete lines 26 through 28, and substitute the following:
"communicate a threat of adverse action to, any healthcare practitioner or healthcare institution as a result of a decision by a healthcare practitioner or healthcare institution to"

AND

Page 2, delete line 30, and substitute the following:
"of the healthcare practitioner or healthcare institution,"

AND

Page 2, delete lines 33 through 36, and substitute the following:

- "(B) Refusal of staff privileges;
- (C) Refusal of board certification;
- (D) Adverse administrative or disciplinary action;
- (E) Demotion;
- (F) Loss of career specialty;
- (G) Reduction of wages, benefits, or privileges;
- (H) Refusal to award any grant, contract, or other

program;

- (I) Refusal to provide residency training opportunities;

(J) Refusal to authorize the creation, expansion, improvement, acquisition, affiliation, or merger of a healthcare institution;
and

- (K) Any other penalty or disciplinary retaliatory action;"

AND

Page 3, delete lines 1 through 11

AND

Page 3, delete lines 32 through 36

AND

Page 4, delete lines 1 through 8, and substitute the following:
"(5) "Healthcare practitioner" means an individual who is:"

AND

Page 4, line 21, delete "and" and substitute "or"

AND

Page 4, delete lines 25 through 36, and substitute the following:
"(6)(A) "Healthcare service" means a phase of patient medical care, treatment, or procedure, including without limitation:

(i) Patient referral;
(ii) Counseling;
(iii) Therapy;
(iv) Testing;
(v) Research;
(vi) Diagnosis or prognosis;
(vii) Instruction;
(viii) Prescribing, dispensing, or administering of
any drug, medication, or device;
(ix) Surgery; and
(x) Other care or treatment provided by a healthcare
provider or healthcare institution.

(B) "Healthcare service" does not mean health care or
treatment that is emergent or necessary to save the life of the patient;"

AND

Page 5, delete lines 1 and 2

AND

Page 5, line 3, delete "(8)" and substitute "(7)"

AND

Page 5, delete line 6, and substitute the following:
"service or any form of healthcare service; and"

AND

Page 5, delete lines 7 and 8, and substitute the following:
"(8) "Reasonable accommodation" means an arrangement to
accommodate beliefs or practices consistent with Title VII of the Civil
Rights Act of 1964, 42 U.S.C. § 2000e et seq., as existing on January 1,
2019."

AND

Page 5, delete lines 11 through 13, and substitute the following:
"(a) A healthcare practitioner or healthcare institution:
(1) Has the right to not participate in a healthcare"

AND

Page 5, delete lines 23 and 24, and substitute the following:
"against a healthcare practitioner or healthcare institution in any manner
based upon his, her, or its declining to participate in"

AND

Page 5, line 25, delete "or pay for a" and substitute "a"

AND

Page 5, delete line 27, and substitute the following:

"section does not include the right to deny emergency medical care.

(d) An action taken by a healthcare institution or employer of a healthcare practitioner is not discrimination under this subchapter if the action is taken as a reasonable accommodation to the right of conscience of a healthcare practitioner.

(e)(1) A healthcare institution that exercises the right of conscience shall promptly inform the patient or an individual authorized to make healthcare decisions for the patient that the healthcare institution will not participate in the healthcare service for reasons of conscience.

(2) If a request for transfer is made by the patient or on behalf of the patient, the healthcare institution shall make all reasonable efforts to assist in a prompt transfer of the patient and provide continuing care to the patient until a transfer can be effected or until a determination has been made that a transfer cannot be effected.

(3) If a transfer cannot be effected, the healthcare institution shall not be compelled to participate in a healthcare service that violates the conscience of the healthcare institution.

(f) This section does not:

(1) Prohibit a potential employer of a healthcare practitioner from designating participation in a particular healthcare service as a fundamental requirement for a position by providing a written certification to the applicant that the healthcare service is directly related and essential to a core purpose of the employer; or

(2) Authorize a healthcare practitioner or healthcare institution to object to or refuse to participate in a healthcare service based upon the particular characteristics of the patient who is seeking the healthcare service.

(g) This section authorizes a healthcare practitioner or healthcare institution to object to a healthcare service if the healthcare service is sought for a particular purpose that is in conflict with the conscience of the healthcare practitioner or healthcare institution regardless of the patient who is seeking those services."

AND

Page 6, delete lines 12 and 13, and substitute the following:

"be brought by a healthcare practitioner or healthcare institution for a violation of this subchapter."

AND

Page 6, line 16, delete "institution, healthcare payer," and substitute "institution,"

AND

Page 6, delete line 17, and substitute the following:

"limitation a patient, is not an affirmative defense.

(3) A civil action brought under subdivision (a)(1) of this section shall demonstrate by a preponderance of the evidence that:

(A) The healthcare practitioner or healthcare institution holds a conscience as defined in this subchapter; and

(B) A reasonable accommodation was not offered or made for the conscience of the healthcare practitioner or healthcare institution."

AND

Page 6, delete line 33, and substitute the following:

"institution.

17-80-507. Applicability.

This subchapter is supplemental to existing protections of the right of conscience within the Arkansas Code and does not affect the existing laws within the state concerning protection of the right of conscience."

The Amendment was read _____

By: Representative B. Smith

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Chief Clerk