

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

A Bill

HOUSE BILL 1898

5
6 By: Representative D. Meeks

7 Filed with: Interim House Committee on Public Health, Welfare and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9 AN ACT TO CREATE THE HEALTHCARE FREEDOM OF CONSCIENCE
10 ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO CREATE THE HEALTHCARE FREEDOM OF
13 CONSCIENCE ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code Title 20 is amended to add an additional
22 chapter to read as follows:

CHAPTER 3

HEALTHCARE PROVIDER ETHICS

Subchapter 1 – Healthcare Freedom of Conscience Act

20-3-101. Title.

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28 This chapter shall be known and may be cited as the "Healthcare Freedom
29 of Conscience Act".

20-3-102. Definitions.

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31 As used in this chapter:

32 (1) "Activity" means:

33 (A) Artificial birth control;

34 (B) Artificial insemination;

35 (C) Assisted reproduction;
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1 (D) Human embryonic stem-cell research; and

2 (E) Sterilization;

3 (2)(A) "Conscience" means the religious, moral, or ethical
4 principles sincerely held by any healthcare professional or healthcare
5 institution.

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

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

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

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

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

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21 20-3-103. Healthcare Institution Conscience Protection.

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

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

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32 20-3-104. Healthcare Professional Conscience Protection.

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

35 (i) The healthcare professional provides advance
36 written notice to his or her employer and each healthcare institution in

1 which the healthcare professional provides services of the specific activity
2 to which the healthcare professional objects; and

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

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

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

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

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

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29 20-3-105. Applicability.

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

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34 Referred by the Arkansas House of Representatives

35 Prepared by: MGF/VJF

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