

1 HB95
2 173640-1
3 By Representative Mooney
4 RFD: Health
5 First Read: 07-FEB-17
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8 SYNOPSIS: This bill would give health care providers
9 the following: The authority to refuse to perform
10 or to participate in health care services that
11 violate their conscience; immunity from civil,
12 criminal, or administrative liability for refusing
13 to provide or participate in a health care service
14 that violates their conscience. This bill would
15 declare it unlawful for any person to discriminate
16 against health care providers for declining to
17 participate in a health care service that violates
18 their conscience. The bill would also provide for
19 injunctive relief and back pay for violation.
20

21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to health care, to allow health care
26 providers to decline to perform any health care service that

1 violates their conscience and provide remedies for persons who
2 exercise that right and suffer consequences as a result.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act may be known and cited as the
5 Health Care Rights of Conscience Act.

6 Section 2. The Legislature finds and declares:

7 (1) It is the public policy of the State of Alabama
8 to respect and protect the fundamental right of conscience of
9 individuals who provide health care services.

10 (2) Without comprehensive protection, health care
11 rights of conscience may be violated in various ways, such as
12 harassment, demotion, salary reduction, termination, loss of
13 privileges, denial of aid or benefits, and refusal to license,
14 or refusal to certify.

15 (3) It is the purpose of this act to protect
16 religious or ethical rights of all health care providers to
17 decline to provide, perform, assist, or participate in
18 providing or performing certain health care services that
19 violate their consciences, where they have made their
20 objections known in writing in advance.

21 (4) It is the purpose of this act to prohibit
22 discrimination, disqualification, or coercion upon such health
23 care providers who decline to perform any health care service
24 that violates their conscience and who object in writing as
25 soon as practicable prior to being asked to perform such
26 health care services.

1 Section 3. The following words and terms shall have
2 the meanings ascribed to them in this section, unless
3 otherwise required by their respective context:

4 (1) CONSCIENCE. The religious, moral, or ethical
5 principles held by a health care provider.

6 (2) DISCRIMINATION. Discrimination includes, but is
7 not limited to: Hiring, termination, refusal of staff
8 privileges, refusal of board certification, demotion, loss of
9 career specialty, reduction of wages or benefits, adverse
10 treatment in the terms and conditions of employment, refusal
11 to award any grant, contract, or other program, or refusal to
12 provide residency training opportunities.

13 (3) HEALTH CARE PROVIDER. Any individual who may be
14 asked to participate in any way in a health care service,
15 including, but not limited to: A physician, physician's
16 assistant, nurse, nurse's aide, medical assistant, hospital
17 employee, clinic employee, nursing home employee, pharmacist,
18 researcher, medical or nursing school faculty, student, or
19 employee, counselor, social worker, or any professional,
20 paraprofessional, or any other person who furnishes or assists
21 in the furnishing of health care services.

22 (4) HEALTH CARE SERVICE. Patient medical care,
23 treatment or procedure that is limited to abortion, human
24 cloning, human embryonic stem cell research, and
25 sterilization, and is related to: Testing, diagnosis or
26 prognosis, research, instruction, prescribing, dispensing or
27 administering any device, drug, or medication, surgery, or any

1 other care or treatment rendered or provided by health care
2 providers. Health care service does not include notifying a
3 member of a health care institution's management of a patient
4 inquiry about obtaining a health care service that a health
5 care provider believes may violate his or her conscience.

6 (5) OBJECT IN WRITING. To provide advance notice in
7 a signed written paper document to an authorized agent of his
8 or her employer, board, or other oversight agency of a
9 particular health care provider. The notice shall be provided
10 within a reasonable time, but in no case less than twenty-four
11 (24) hours prior to any service or procedure objected to under
12 this act by the health care provider.

13 (6) PARTICIPATE. To perform, assist in, refer for,
14 admit for purposes of providing, or participate in providing,
15 any health care service or any form of such service.
16 Participate does not include compliance with a health care
17 institution's policy and procedure which states that a health
18 care provider must notify a member of the health care
19 institution's management of a patient's inquiry about
20 obtaining a health care service that the health care provider
21 believes may violate his or her conscience.

22 Section 4. (a) A health care provider has the right
23 not to participate, and no health care provider shall be
24 required to participate, in a health care service that
25 violates his or her conscience when the health care provider
26 has objected in writing prior to being asked to provide such
27 health care services.

1 (b) When objecting in writing in accordance with
2 this act, no health care provider shall be civilly,
3 criminally, or administratively liable for declining to
4 participate in a health care service that violates his or her
5 conscience except when failure to do so would immediately
6 endanger the life of a patient.

7 (c) It shall be unlawful for any person, health care
8 provider, health care institution, public or private
9 institution, public official, or any board which certifies
10 competency in medical or health care specialties to
11 discriminate against any health care provider in any manner
12 based on his or her declining to participate in a health care
13 service that violates his or her conscience, where the health
14 care provider has made his or her objections known in writing.
15 Provided further, students may be evaluated based on their
16 understanding of course materials, but no student shall be
17 required to perform a health care service or be penalized
18 because he or she subscribes to a particular position on
19 health care services.

20 (d) Notwithstanding any other provision in this act,
21 in a life-threatening situation where no other health care
22 provider is available or capable of providing or participating
23 in a health care or medical service, a health care provider
24 shall provide and participate in diagnosis, medical treatment,
25 medical care, and medical procedures until an alternate health
26 care provider capable of providing or participating in the

1 emergency medical treatment, medical care, or medical
2 procedures is found or otherwise becomes available.

3 (e) Except as otherwise provided in this section, a
4 hospital, as defined in Section 22-21-20, Code of Alabama
5 1975, or other health care entity, and any employee,
6 physician, member, or person associated with the hospital or
7 other health care entity is immune from criminal and civil
8 liability for any damage caused by the refusal of a health
9 care provider to participate in a health care service as
10 defined in this act at a facility owned, operated, or
11 controlled by the hospital or other health care entity.

12 Section 5. (a) An action for injunctive relief may
13 be brought for the violation of any provision of this act.

14 (b) The court in such action may award injunctive
15 relief, including ordering reinstatement of a health care
16 provider to his or her prior job position, back pay and costs
17 of the action.

18 Section 6. Nothing in this act shall be construed to
19 permit or require the violation of any Alabama statute,
20 regulation, or other provision of law that regulates or
21 provides rights, duties, obligations, or limitations related
22 in any way to abortion.

23 Section 7. The provisions of this act shall not
24 apply to health care institutions or employers who are
25 licensed by the State of Board of Health as abortion clinics.
26 Further, nothing in this act shall modify, amend, repeal, or
27 supersede any provision of Section 6-5-333 of the Code of

1 Alabama 1975, or the "Alabama Medical Liability Act of 1987"
2 commencing with Section 6-5-540, Code of Alabama 1975, et
3 seq., or the Alabama Medical Liability Act of 1996, commencing
4 with Section 6-5-548, Code of Alabama 1975, et seq., or any
5 amendment to any of the foregoing, or any judicial
6 interpretation of any of the foregoing.

7 Section 8. If any part, section, or subsection of
8 this act or the application thereof to any person or
9 circumstances is held invalid, such invalidity shall not
10 affect parts, sections or subsections or applications of this
11 act which can be given effect without the invalid part,
12 section, or subsection or application and to this end, such
13 invalid portions of this act are declared severable.

14 Section 9. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.