

1 HB354  
2 147502-1  
3 By Representative Weaver  
4 RFD: Health  
5 First Read: 28-FEB-13

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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. Further, the bill would provide  
19 for 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 counsel, advise, provide, perform, assist, or  
18 participate in providing or performing certain health care  
19 services that violate their consciences, where they have made  
20 their objections known in writing.

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 prior  
25 to being asked to perform such 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. Any phase of patient  
23 medical care, treatment or procedure that is limited to  
24 abortion, human cloning, human embryonic stem cell research,  
25 and sterilization, and is related to: Patient referrals,  
26 counseling, therapy, testing, diagnosis or prognosis,  
27 research, instruction, prescribing, dispensing or

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

7 (5) OBJECT IN WRITING. To provide advance notice in  
8 a signed written document to an authorized agent of his or her  
9 employer, board, or other oversight agency of a particular  
10 health care provider.

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

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

1 (b) No health care provider shall be civilly,  
2 criminally, or administratively liable for declining to  
3 participate in a health care service that violates his or her  
4 conscience except when failure to do would immediately  
5 endanger the life of a patient.

6 (c) No limitation of liability or exception in this  
7 act shall apply when any health care provider declines to  
8 participate in any health care service if the denial of the  
9 health care service will result in or hasten the death of the  
10 patient on the basis that extending the life of an elderly,  
11 disabled, or terminally ill patient is of less value than  
12 extending the life of a patient who is younger, not disabled,  
13 or not terminally ill.

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

1           Section 5. (a) An action for injunctive relief may  
2 be brought for the violation of any provision of this act. It  
3 shall not be a defense to any claim arising out of the  
4 violation of this act that such violation was necessary to  
5 prevent additional burden or expense on any other health care  
6 provider or health care institution.

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

11           Section 6. Nothing in this act shall be construed to  
12 permit or require the violation of any Alabama statute,  
13 regulation, or other provision of law that regulates or  
14 provides rights, duties, obligations, or limitations related  
15 in any way to abortion.

16           Section 7. The provisions of this act shall not  
17 apply to health care institutions or employers who are  
18 licensed by the State of Board of Health as abortion clinics.  
19 Further, nothing in this act shall modify, amend, repeal, or  
20 supersede any provision of Section 6-5-333 of the Code of  
21 Alabama 1975, or any judicial interpretation thereof.

22           Section 8. If any part of this act or the  
23 application thereof to any person or circumstances is held  
24 invalid, such invalidity shall not affect parts or  
25 applications of this act which can be given effect without the  
26 invalid part or application and to this end, such invalid  
27 portions of this act are declared severable.

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