

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

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1898

By: Representative D. Meeks

For An Act To Be Entitled

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

Subtitle

TO CREATE THE HEALTHCARE FREEDOM OF
CONSCIENCE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

CHAPTER 3

HEALTHCARE PROVIDER ETHICS

Subchapter 1 – Healthcare Freedom of Conscience Act

20-3-101. Title.

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

20-3-102. Definitions.

As used in this chapter:

(1) "Activity" means:

(A) Artificial birth control;

(B) Artificial insemination;

(C) Assisted reproduction;

(D) Human embryonic stem-cell research; and

(E) Sterilization;



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

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

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

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

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

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

20-3-103. Healthcare Institution Conscience Protection.

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

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

20-3-104. Healthcare Professional Conscience Protection.

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

(i) The healthcare professional provides advance written notice to his or her employer and each healthcare institution in which the healthcare professional provides services of the specific activity to which the healthcare professional objects; and

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

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

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

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

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

20-3-105. Applicability.

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