

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S3/20/25

A Bill

SENATE BILL 444

By: Senator K. Hammer
By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE MEDICAL ETHICS AND DIVERSITY ACT;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE MEDICAL ETHICS AND
DIVERSITY ACT.

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

SECTION 1. Arkansas Code § 17-80-503(5), concerning the definition of healthcare service within the Medical Ethics and Diversity Act, is amended to read as follows:

(5) "Healthcare service" means medical research or medical care provided to a patient at any time over the entire course of treatment, including without limitation:

- (A) Initial examination;
- (B) Patient referral;
- (C) Counseling or psychological therapy;
- (D) Therapy;
- (E) Testing;
- (F) Research;
- (G) Diagnosis or prognosis;
- (H) Instruction;
- (I) Dispensing or administering, or both, of any drug, medication, or device;
- (J) Set up or performance of a surgery or other procedure;
- (K) Recordkeeping and recordmaking procedures and notes



related to treatment; and

(L) Other care or services provided by a medical practitioner or healthcare institution;

SECTION 2. Arkansas Code § 17-80-504 is amended to read as follows:
17-80-504. Right of conscience.

(a) A medical practitioner, healthcare institution, or healthcare payer:

(1) Has the right not to participate in a healthcare service that violates his, her, or its conscience;

(2) Is not required to participate in a healthcare service that violates his, her, or its conscience;

(3) Is not civilly, criminally, or administratively liable for declining to participate in a healthcare service that violates his, her, or its conscience;

(4) Is not civilly, criminally, or administratively liable for the exercise of conscience rights not to participate in a healthcare service by a medical practitioner employed, contracted, or granted admitting privileges by a healthcare institution; and

(5) Shall not be discriminated against in any manner based upon his, her, or its declining to participate in a healthcare service that violates his, her, or its conscience.

(b) Exercise of the right of conscience is limited to conscience-based objections to a particular healthcare service.

(c) A worker in the medical field, whether a contractor or employee, has the right to not facilitate or participate in an abortion, assisted suicide, or gender transition procedure or service in any manner, except as required by subsection (e) of this section and an abortion performed in accordance with the Arkansas Human Life Protection Act, § 5-61-301 et seq., and the Arkansas Unborn Child Protection Act, § 5-1-401 et seq.

(d) A medical practitioner, healthcare institution, or healthcare payer that holds himself, herself, or itself out to the public as religious, states in its governing documents that it has a religious purpose or mission, and has internal operating policies or procedures that implement its religious beliefs has the right to make employment, staffing, contracting, and admitting privilege decisions consistent with his, her, or its religious

beliefs.

~~(d)~~(e)(1) The right of conscience described in subsection (a) of this section does not include the right to deny emergency medical care as required under 42 U.S.C. § 1395dd, as existing on January 1, 2021, or any other federal law governing emergency medical treatment, as existing on January 1, 2021.

(2) Emergency medical care services provided at a hospital that are required by 42 U.S.C. § 1395dd, as existing on January 1, 2025, and performed in accordance with the requirements of the Arkansas Human Life Protection Act, § 5-61-301 et seq., and the Arkansas Unborn Child Protection Act, § 5-1-401 et seq., are not violations of this subchapter.

~~(e)~~(1)(f)(1) When a medical practitioner declines to participate in a healthcare service for reasons of conscience, the medical practitioner shall alert the employing healthcare institution at the earliest reasonable time and comply with any applicable protocol developed under this section.

(2)(A) A healthcare institution may develop a protocol for situations in which a medical practitioner declines to participate in a healthcare service.

(B) The protocol shall provide for prompt patient access to medical records to facilitate transfer, if needed.

(3) This section does not require a healthcare institution or medical practitioner to perform a healthcare service, counsel, or refer a patient regarding a healthcare service that is contrary to the conscience of the medical practitioner or healthcare institution.

~~(f)~~(1)(g)(1) This section does not prohibit an employer or contracting healthcare institution from disclosing the specific healthcare services that an applicant would be required to participate in if he or she is hired for the position or contract.

(2) Upon being informed of the specific healthcare services required of the position or contract, the applicant shall disclose whether he, she, or it has a conscience objection to any of those required duties.

(3) However, a medical practitioner or healthcare institution shall be able to decline to participate in a healthcare service that violates his, her, or its conscience if the employer or contracting healthcare institution, after employment, adds healthcare services to a medical practitioner's or healthcare institution's duties that would require the

medical practitioner or healthcare institution to provide services that violate his, her, or its conscience.

~~(g)-(1)~~(h)(1) A healthcare payer shall file its conscience policies annually with the State Insurance Department by including a comprehensive list by billing code of any and all products, services, and procedures that the healthcare payer shall not pay or make payment for reasons of conscience.

(2) The annual filing described in subdivision ~~(g)-(1)~~ (h)(1) of this section shall:

(A) Be provided annually to each beneficiary of the healthcare payer and on the website of the healthcare payer; and

(B) Not be required for any year in which the healthcare payer will not exercise its conscience rights under this subchapter.

~~(h)~~(i) A healthcare payer shall not use a conscience objection to refuse or reduce payments to a healthcare provider, healthcare institution, or beneficiary for any product, service, or procedure that is not included in the annual filing required under subdivision ~~(g)-(1)~~ (h)(1) of this section.

~~(i)~~(j) A healthcare payer shall not compel by undue influence, fraud, or duress a healthcare provider, healthcare institution, or beneficiary to accept a contract or contract amendment that violates the conscience of the healthcare provider, healthcare institution, or beneficiary.

~~(j)~~(k) The department may issue rules and take any other action necessary or appropriate to enforce subsections ~~(g)-(i)~~ (h)-(j) of this section.

SECTION 3. Arkansas Code Title 17, Chapter 80, Subchapter 5, is amended to add additional sections to read as follows:

17-80-507. Protection from discrimination.

(a) A healthcare provider shall not be discriminated against because the healthcare provider:

(1) Provided, caused to be provided, or is about to provide or cause to be provided information relating to any act or omission the healthcare provider reasonably believes to be a violation of any provision of this subchapter to:

(A) His or her employer;

(B) The Attorney General;

(C) The Department of Health;

(D) Any state agency charged with protecting healthcare rights of conscience;

(E) The United States Department of Health and Human Services;

(F) The United States Office for Civil Rights; or

(G) Any state or federal agency charged with protecting healthcare rights of conscience; or

(2) Testified, assisted, or participated, or is about to testify, assist, or participate, in a proceeding concerning a violation.

(b) Unless the disclosure is specifically prohibited by law, a medical researcher, physician, or directly participating healthcare provider shall not be discriminated against because the medical researcher, physician, or directly participating healthcare provider discloses information, including by a formal or informal communication, transmission, or discussion, that the medical researcher, physician, or directly participating healthcare provider reasonably believes evidences:

(1) Any violation of any law related to medical research or the provision of healthcare services; or

(2) Gross mismanagement, a gross waste of funds, an abuse of authority, a practice or method of treatment that may put patient health at risk, or a substantial and specific danger to public health or safety.

(c) Notwithstanding any other provision in this section, a complaint by a medical practitioner against another medical practitioner shall be submitted according to the peer review process mandated by the Health Care Quality Improvement Act of 1986, 42 U.S.C. § 11101 et seq., as existing on January 1, 2025.

17-80-508. First Amendment protections.

(a)(1) A state licensing, certifying, or recognizing board or entity, or the Department of Health, shall not reprimand, sanction, revoke, or threaten to revoke a license, certification, or registration of, or otherwise discriminate against, a medical practitioner for engaging in speech, expression, or association that is protected from government interference by the First Amendment of the United States Constitution, unless the board, entity, or the department, as applicable, demonstrates by clear and convincing evidence that the medical practitioner's speech, expression, or

association was the direct cause of physical harm to a person with whom the medical practitioner had a practitioner-patient relationship within the three (3) years immediately preceding the incident of physical harm.

(2) The licensing, certifying, or recognizing board or entity, or the department, as applicable, shall:

(A) Provide a medical practitioner with any complaints it has received that may result in the revocation of the medical practitioner's license, certification, or registration, within twenty-one (21) days after receipt of the complaint; and

(B) Pay the medical practitioner an administrative penalty of five hundred dollars (\$500) for each day the complaint is not provided to the medical practitioner after the specified twenty-one (21) days.

(b) A political subdivision of this state shall not contract with, approve, or require an individual to obtain certifications or credentials issued or approved by a specialty board or other recognizing or certifying entity that revokes the certification of, or refuses to issue certification to, an individual because the individual has engaged in speech, expression, or association that is protected from government interference by the First Amendment of the United States Constitution if the individual was not providing medical advice or treatment to a specific patient that resulted in physical harm to the patient.

/s/K. Hammer