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LC01733

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTH CARE RIGHTS OF CONSCIENCE
ACT

Introduced By: Senators Ciccone, Metts, DiPalma, Goodwin, and McCaffrey

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17-11 of the General Laws in Chapter 23-17 entitled "Licensing
2 of Health Care Facilities" is hereby repealed.

3 ~~23-17-11. Abortion and sterilization -- Protection for nonparticipation -- Procedure.~~
4 ~~-- A physician or any other person who is a member of or associated with the medical staff of a~~
5 ~~health care facility or any employee of a health care facility in which an abortion or any~~
6 ~~sterilization procedure is scheduled, and who shall state in writing an objection to the abortion or~~
7 ~~sterilization procedure on moral or religious grounds, shall not be required to participate in the~~
8 ~~medical procedures which result in the abortion or sterilization, and the refusal of the person to~~
9 ~~participate in the medical procedures shall not form the basis for any claim of damages on~~
10 ~~account of the refusal or for any disciplinary or recriminatory action against the person.~~

11 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
12 amended by adding thereto the following chapter:

13 CHAPTER 17.25

14 HEALTH CARE RIGHTS OF CONSCIENCE ACT

15 23-17.25-1. Title. -- This act may be known and cited as the "Health Care Rights of
16 Conscience Act."

17 23-17.25-2. Legislative findings and purposes. -- (a) It is the public policy of the state of
18 Rhode Island to respect and protect the fundamental right of conscience of all individuals who

1 provide health care services.

2 (b) Without comprehensive protection, health care rights of conscience may be violated
3 in various ways, such as harassment, demotion, salary reduction, transfer, termination, loss of
4 staffing privileges, denial of aid or benefits, and refusal to license, or refusal to certify.

5 (c) It is the purpose of this chapter to protect as a basic civil right, the right of all health
6 care providers, institutions and payers to decline to counsel, advise, pay for, provide, perform,
7 assist, or participate in providing or performing health care services that violate their consciences.
8 Such health care services may include, but are not limited to, abortion, artificial birth control,
9 artificial insemination, assisted reproduction, human cloning, euthanasia, human embryonic stem
10 cell research, fetal experimentation, physician-assisted suicide, and sterilization.

11 (d) Accordingly, it is the purpose of this chapter to prohibit all forms of discrimination,
12 disqualification, coercion, disability, or liability upon such health care providers, institutions and
13 payers that decline to perform any health care service that violates their conscience.

14 **23-17.25-3. Definitions. -- As used in this chapter:**

15 (1) "Health care service" means any phase of patient medical care, treatment or
16 procedure, including, but not limited to, the following: patient referral, counseling, therapy,
17 testing, diagnosis or prognosis, research, instruction, prescribing, dispensing or administering any
18 device, drug, or medication, surgery, or any other care or treatment rendered by health care
19 providers or health care institutions.

20 (2) "Health care provider" means any individual who may be asked to participate in any
21 way in a health care service, including, but not limited to: a physician, physician's assistant,
22 nurse, nurses' aide, medical assistant, hospital employee, clinic employee, nursing home
23 employee, pharmacist, pharmacy employee, researcher, medical or nursing school faculty, student
24 or employee, counselor, social worker, or any professional, paraprofessional, or any other person
25 who furnishes, or assists in the furnishing of health care services.

26 (3) "Health care institution" means any public or private organization, corporation,
27 partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is
28 involved in providing health care services, including, but not limited to: hospitals, clinics,
29 medical centers, ambulatory surgical centers, private physician's offices, pharmacies, nursing
30 homes, university medical schools and nursing schools, medical training facilities, or other
31 institutions or locations wherein health care services are provided to any person.

32 (4) "Health care payer" means any entity or employer that contracts for, pays for, or
33 arranges for the payment of, in whole or in part, any health care service or product, including, but
34 not limited to, health maintenance organizations, health plans, insurance companies, or

1 management services organizations.

2 (5) "Employer" means any individual or entity that pays for or provides health benefits or
3 health insurance coverage as a benefit to its employees, whether through a third-party, a health
4 maintenance organization, a program of self insurance, or some other means.

5 (6) "Participate" in a health care service means to counsel, advise, provide, perform,
6 assist in refer for, admit for purposes of providing, or participate in providing, any health care
7 service, or any form of such service.

8 (7) "Pay" or "payment" means to pay, contract for, or otherwise arrange for the payment
9 of, in whole or in part.

10 (8) "Conscience" means the religious, moral or ethical principles held by a health care
11 provider, the health care institution or health care payer. For purposes of this chapter, a health
12 care institution or health care payer's conscience shall be determined by reference to its existing
13 or proposed religious, moral or ethical guidelines, mission statement, constitution, bylaws,
14 articles of incorporation, regulations, or other relevant documents.

15 **23-17.25-4. Rights of conscience of health care providers.** – (a) Rights of conscience.
16 A health care provider has the right not to participate, and no health care provider shall be
17 required to participate, in a health care service that violates his or her conscience.

18 (b) Immunity from liability. No health care provider shall be civilly, criminally, or
19 administratively liable for declining to participate in a health care service that violates his or her
20 conscience.

21 (c) Discrimination. It shall be unlawful for any person, health care provider, health care
22 institution, public or private institution, public official, or any board which certifies competency
23 in medical specialties to discriminate against any health care provider in any manner based on his
24 or her declining to participate in a health care service that violates his or her conscience. For
25 purposes of this chapter, discrimination includes, but is not limited to, termination, transfer,
26 refusal of staff privileges, refusal of board certification, adverse administrative action, demotion,
27 loss of career specialty, reassignment to a different shift, reduction of wages or benefits, refusal to
28 award any grant, contract, or other program, refusal to provide residency training opportunities,
29 or any other penalty, disciplinary or retaliatory action.

30 **23-17.25-5. Rights of conscience of health care institutions.** – (a) Rights of conscience.
31 A health care institution has the right not to participate, and no health care institution shall be
32 required to participate, in a health care service that violates its conscience.

33 (b) Immunity from liability. A health care institution that declines to provide or
34 participate in a health care service that violates its conscience shall not be civilly, criminally, or

1 administratively liable if the institution provides a consent form to be signed by a patient before
2 admission to the institution stating that it reserves the right to decline to provide or participate in
3 health care services that violate its conscience.

4 (c) Discrimination. It shall be unlawful for any person, public or private institution, or
5 public official to discriminate against any health care institution, or any person, association,
6 corporation, or other entity attempting to establish a new health care institution or operating in
7 existing health care institution, in any manner, including, but not limited to: any denial
8 deprivation or disqualification with respect to licensure; any aid assistance, benefit or privilege,
9 including staff privileges; or any authorization including authorization to create, expand, improve,
10 acquire, or affiliate or merge with any health care institution, because such health care institution,
11 or person, association, or corporation planning, proposing, or operating a health care institution,
12 declines to participate in a health care service which violates the health care institution's
13 conscience.

14 (d) Denial of aid or benefit. It shall be unlawful for any public official, agency,
15 institution, or entity to deny any form of aid, assistance, grants, or benefits, or in any other
16 manner to coerce, disqualify, or discriminate against any person, association, corporation, or
17 other entity attempting to establish a new health care institution or operating an existing health
18 care institution because the existing or proposed health care institution declines to participate in a
19 health care service contrary to the health care institution's conscience.

20 **23-17.25-6. Rights of conscience of health care payers.** – (a) Rights of conscience. A
21 health care payer has the right to decline to pay, and no health care payer shall be required to pay
22 for or arrange for the payment of any health care service or product that violates its conscience.

23 (b) Immunity from liability. No health care payer and no person, association, corporation,
24 or other entity that owns, operates, supervises, or manages a health care payer shall be civilly or
25 criminally liable by reason of the health care payer's declining to pay for or arrange for the
26 payment of any health care service that violates its conscience.

27 (c) Discrimination. It shall be unlawful for any person, public or private institution, or
28 public official to discriminate against any health care payer; or any person, association,
29 corporation, or other entity: (1) attempting to establish a new health care payer; or (2) operating
30 an existing health care payer, in any manner, including, but not limited to, any denial,
31 deprivation, or disqualification with respect to licensure, aid, assistance, benefit, privilege, or
32 authorization, including, but not limited to, any authorization to create, expand, improve, acquire
33 or affiliate or merge with any health care payer, because a health care payer, or person,
34 association, corporation, or other entity planning, proposing, or operating a health care payer

1 declines to pay for or arrange for the payment of any health care service that violates its
2 conscience.

3 (d) Denial of aid or benefits. It shall be unlawful for any public official, agency,
4 institution, or entity to deny any form of aid, assistance, grants, or benefits, or in any other
5 manner to coerce disqualify, or discriminate against any health care payer, or any person,
6 association, corporation, or other entity attempting to establish a new health care payer or
7 operating an existing health care payer because the existing or proposed health care payer
8 declines to pay for, or arrange for the payment of, any health care service that is contrary to its
9 conscience.

10 **23-17.25-7. Civil remedies.** – (a) A civil action for damages or injunctive relief, or both,
11 may be brought for the violation of any provision of this chapter. It shall not be a defense to any
12 claim arising out of the violation of this act that such violation was necessary to prevent
13 additional burden or expense on any other health care provider, health care institution, individual,
14 or patient.

15 (b) Damage remedies. Any individual, association, corporation, entity, or health care
16 institution injured by any public or private individual, association, agency, entity, or corporation
17 by reason of any conduct prohibited by this act may commence a civil action. Upon finding a
18 violation of this act, the aggrieved party shall be entitled to recover threefold the actual damages,
19 including pain and suffering, sustained by such individual, association, corporation, entity or
20 health care institution, the costs of the action, and reasonable attorneys' fees; but in no case shall
21 recovery be less than five thousand dollars (\$5,000) for each violation in addition to the cost of
22 the action and reasonable attorneys' fees. These damage remedies shall be cumulative, and not
23 exclusive of other remedies afforded under any other state or federal law.

24 (c) Injunctive remedies. The court in such civil action may award injunctive relief,
25 including, but not limited to, ordering reinstatement of a health care provider to his or her prior
26 job position.

27 **23-17.25-8. Discrimination in provision of health services on basis of race or**
28 **disability.** – Nothing in this act shall be construed to authorize or shield from liability the denial
29 of a health care service that a health care provider, a health care institution, or a health care payer
30 provides to others on the basis of a patient's race or present or predicted disability. For purposes
31 of this section, the term "disability" has the meaning given to it by section 12102(2)(a) of Title 42
32 of the United States Code.

33 **23-17.25-9. Severability.** – The provisions of the chapter are declared to be severable,
34 and if any provision, word, phrase, or clause of the chapter or the application thereof to any

- 1 [person shall be held invalid, such invalidity shall not affect the validity of the remaining portions](#)
- 2 [of this chapter.](#)
- 3 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY -- HEALTH CARE RIGHTS OF CONSCIENCE
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1 This act would provide protection from discrimination to all health care providers who
2 chose not to participate in a health care service that violates the conscience of the health care
3 provider. The act would also provide a civil cause of action for damages in instances of
4 violations of this act.

5 This act would take effect upon passage.

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