

LC01433

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2003**

**A N A C T**

**RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES**

Introduced By: Senators Alves, and Raptakis

Date Introduced: February 27, 2003

Referred To: Senate Health & Human Services

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2 of Health Care Facilities" is hereby repealed.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:

CHAPTER 17.20

HEALTH CARE RIGHTS OF CONSCIENCE ACT

15 **23-17.20-1. Title.** -- This act may be known and cited as the "Health Care Rights of  
16 Conscience Act."

17 **23-17.20-2. 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  
19 provide health care services.

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

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

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

13           **23-17.20-3. Definitions.** – As used in this chapter:

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

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

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

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

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

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

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

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

14           **23-17.20-4. Rights of conscience of health care providers.** – (a) Rights of conscience.  
15 A health care provider has the right not to participate, and no health care provider shall be  
16 required to participate in a health care service that violates his or her conscience.

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

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

29           **23-17.20-5. Rights of conscience of health care institutions.** -- (a) Rights of conscience.  
30 A health care institution has the right not to participate, and no health care institution shall be  
31 required to participate in a health care service that violates its conscience.

32           (b) Immunity from liability. A health care institution that declines to provide or  
33 participate in a health care service that violates its conscience shall not be civilly, criminally or  
34 administratively liable if the institution provides a consent form to be signed by a patient before

1 admission to the institution stating that it reserves the right to decline to provide or participate in  
2 health care services that violate its conscience.

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

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

19 **23-17.20-6. Rights of conscience of health care payers. -- (a) Rights of conscience. A**  
20 **health care payer has the right to decline to pay, and no health care payer shall be required to pay**  
21 **for, or arrange for the payment of any health care service or product that violates its conscience.**

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

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

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

7           **23-17.20-7. Civil remedies.** – (a) A civil action for damages or injunctive relief, or both,  
8 may be brought for the violation of any provision of this chapter. It shall not be a defense to any  
9 claim arising out of the violation of this chapter that such violation was necessary to prevent  
10 additional burden or expense on any other health care provider, health care institution, individual  
11 or patient.

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

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

24           **23-17.20-8. Discrimination in provision of health services on basis of race or**  
25 **disability.** – Nothing in this chapter shall be construed to authorize or shield from liability the  
26 denial of a health care service that a health care provider, a health care institution, or a health care  
27 payer provides to others on the basis of a patient's race or present or predicted disability. For  
28 purposes of this section, the term "disability" has the meaning given to it by section 12102 (2) (a)  
29 of title 42 of the United States Code.

30           **23-17.20-9. Severability.** – The provisions of this chapter are declared to be severable,  
31 and if any provision, word, phrase or clause of the chapter or the application thereof to any person  
32 shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this  
33 chapter.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- LICENSING OF HEALTH CARE FACILITIES

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1           This act would repeal the old section regarding protection for nonparticipation by health  
2 care providers and would expand the law to protect all health care workers who decline to  
3 perform any form of health care service which they believe would violate their conscience.

4           This act would take effect upon passage.

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