

HCS HB 1541 -- CONSCIENCE RIGHTS OF MEDICAL SERVICE PROVIDERS  
(Jones, 89)

COMMITTEE OF ORIGIN: Committee on Health Care Policy

This substitute specifies that any medical professional, including an individual who may be asked to participate in any way in a medical service, or health care institution where medical services are provided, has the right not to participate in and cannot be required to participate in a medical service, including any phase of patient medical care, treatment, or procedure that violates his or her conscience including his or her religious, moral, or ethical principles that are adherent to a sincere and meaningful belief in God or in relation to a supreme being.

No medical professional or health care institution can be civilly, criminally, or administratively liable for declining to participate, provide or perform any specified medical procedure or research that violates his or her conscience.

No medical professional or health care institution can be discriminated against in any manner for declining to participate, provide or perform any specified medical procedure or research including, but not limited to, declining to counsel, advise, pay for, provide, perform, assist, participate, provide or perform any specified medical procedure or research that violates his or her conscience.

It will be unlawful for any person, the state, a political subdivision, a public or private institution, or a public official to discriminate against any medical institution or any person, association, corporation, or other entity attempting to establish a new or operating an existing health care institution in any manner because it declines to participate, provide or perform any specified medical procedure or research which violates the institution's conscience. It will be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits or in any other manner to coerce, disqualify, or discriminate against a person or entity attempting to establish a new or operating an existing health care institution because it declines to participate, provide or perform any specified medical procedure or research contrary to its conscience. The provisions of the substitute do not authorize a health care professional or institution to withhold lifesaving emergency medical treatment or services or to alleviate a duty to inform a patient of his or her condition, risks, prognosis, and available options and resources. A cause of action for damages or injunctive relief, or both, may be brought for a violation of these provisions. It cannot be a

defense to any claim that the violation was necessary to prevent additional burden or expense on any other medical professional, health care institution, individual, or patient.

A cause of action for damages or injunctive relief, or both, can be a discriminatory violation of a medical professional or health care institution's conscience rights. A defense to any discrimination claim that the violation was necessary to prevent additional burden or expense on any other medical professional, health care institution, individual, or patient is prohibited. The aggrieved party must be entitled to recover threefold the actual damages, including pain and suffering, the costs of the action, and reasonable attorney fees. Recovery cannot be less than \$5,000 for each violation in addition to the costs of the action and reasonable attorney fees.

The General Assembly can, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this legislation in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

The substitute contains a severability clause and if any part of these provisions is declared invalid, it is the intent of the General Assembly that the remaining provisions will remain in force and effect.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.