

**SUBSTITUTE FOR
SENATE BILL NO. 975**

A bill to protect religious liberty and rights of conscience in the areas of health care and medical and scientific research as it pertains to employment, education and training, and participating in health care services and to the purchasing of or providing for the purchase of health insurance; to provide immunity from liability; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "religious liberty and conscience protection act".

3 Sec. 3. As used in this act:

4 (a) "Conscience" means sincerely held convictions arising from
5 a belief in God or the tenants of an established religion, or from
6 the ethical or moral principles of a generally recognized

1 philosophy or belief system that an individual asserting those
2 convictions can reference as a basis for those convictions. For
3 purposes of this act, the conscience of an entity shall be
4 determined by reference to existing or proposed religious, moral,
5 or ethical guidelines, mission statement, constitution, bylaws,
6 articles of incorporation, or regulations adhered to by the entity.

7 (b) "Health care payer" or "payer" means an entity or employer
8 that purchases, contracts for, pays for, arranges payment for, or
9 facilitates the payment of any health care service, including, but
10 not limited to, health maintenance organizations, health plans,
11 nonprofit health care corporations, insurance companies, or
12 management services organizations. Health care payer does not
13 include an individual.

14 (c) "Health care purchaser" means an individual, entity, or
15 employer seeking to purchase or who has purchased a health
16 insurance contract, policy, or product.

17 (d) "Health care service" or "service" means any of the
18 following:

19 (i) A phase of patient medical care, treatment, or procedure,
20 including, but not limited to, patient referral, therapy, testing,
21 diagnosis or prognosis, research instruction, prescribing, surgery,
22 dispensing or administering a device, drug, or medication, or other
23 medical care rendered to a human patient by a health provider or
24 health facility.

25 (ii) Medical or scientific research directed toward developing
26 a therapeutic means of treating human illness, disease, or health
27 condition.

1 (e) "Health facility" means any of the following:

2 (i) A clinical laboratory, as defined in section 20104 of the
3 public health code, 1978 PA 368, MCL 333.20104.

4 (ii) A county medical care facility, as defined in section
5 20104 of the public health code, 1978 PA 368, MCL 333.20104.

6 (iii) A freestanding surgical outpatient facility, as defined in
7 section 20104 of the public health code, 1978 PA 368, MCL
8 333.20104.

9 (iv) A hospital, as defined in section 20106 of the public
10 health code, 1978 PA 368, MCL 333.20106.

11 (v) A hospice, as defined in section 20106 of the public
12 health code, 1978 PA 368, MCL 333.20106.

13 (vi) A hospice residence, as defined in section 21401 of the
14 public health code, 1978 PA 368, MCL 333.21401.

15 (vii) A nursing home, as defined in section 20109 of the public
16 health code, 1978 PA 368, MCL 333.20109.

17 (viii) A facility or agency listed in subparagraphs (i) to (viii)
18 located in a university, college, or other educational institution.

19 (ix) The private practice office of a health professional
20 licensed or otherwise authorized to engage in the practice of a
21 health profession under article 15 of the public health code, 1978
22 PA 368, MCL 333.16101 to 333.18838.

23 (x) A medical clinic that provides health care services.

24 (xi) A public or private institution that provides health care
25 services.

26 (xii) A teaching institution that provides health care
27 services.

1 (xiii) A pharmacy that provides health care services. As used in
2 this subparagraph, "pharmacy" means that term as defined in section
3 17707 of the public health code, 1978 PA 368, MCL 333.17707.

4 (xiv) Any other person or legal entity that provides health
5 care services.

6 (f) "Health provider" means any of the following:

7 (i) Except as otherwise provided in this subparagraph, a
8 licensed, registered, or certified individual who is employed, a
9 contracted, or granted privileges to participate in a health care
10 service. This subparagraph does not include an individual who is
11 employed by or under an independent contract with a health care
12 payer to provide case or disease management services.

13 (ii) A faculty or staff member or a student of a university,
14 college, or educational institution where a health care service is
15 provided or where education and training regarding the provision of
16 a health care service is conducted.

17 (g) "Participate in a health care service" means to instruct,
18 advise, provide, perform, assist in, refer to a particular provider
19 or institution for, admit for purposes of providing, conduct
20 medical or scientific research for, or facilitate payment for a
21 health care service.

22 Sec. 5. (1) A health facility may assert as a matter of
23 conscience an objection to participating in a health care service
24 and may decline to participate in a health care service that
25 violates its conscience pursuant to this section. If a health
26 facility asserts as a matter of conscience an objection to
27 participating in a health care service under this section, the

1 health facility shall apply that objection equally to all patients
2 that it serves, subject to this act.

3 (2) A health facility shall not assert a matter of conscience
4 objection under subsection (1) under either of the following
5 circumstances:

6 (a) The objection is based on the patient's or a group of
7 patients' status, or a patient's insurance coverage, ability to
8 pay, or method of payment.

9 (b) The objection is based on a disagreement with a health
10 provider employed by, under contract to, or granted privileges by
11 the health facility regarding the medical appropriateness of a
12 health care service for a specific patient, the patient has
13 consented to the provision of the health care service, and the
14 health facility routinely allows that health care service to be
15 performed.

16 (3) A health facility shall provide notice of its assertion of
17 an objection to participating in a health care service described in
18 subsection (1) through written public notice or personally in
19 writing at the time an individual seeks to obtain that health care
20 service from the health facility.

21 (4) A health facility's assertion of an objection as described
22 in subsection (1) to participating in a health care service shall
23 not be a basis for any of the following:

24 (a) Civil liability to another person.

25 (b) Criminal action.

26 (c) Administrative or licensure action.

27 (d) Eligibility discrimination against the health facility in

1 a grant, contract, or program, unless participating in the health
2 care service is an objective of the grant, contract, or program.

3 Sec. 7. (1) A health care payer may decline to offer a
4 contract, policy, or product that pays for, arranges payment for,
5 or facilitates the payment of a health care service that violates
6 the conscience of the payer.

7 (2) A health care purchaser may decline to purchase or
8 financially contribute toward the purchase of a contract, policy,
9 or product that includes coverage for a health care service that
10 violates the conscience of the payer.

11 (3) A health care payer entity and any person that owns,
12 operates, supervises, or manages a health care payer entity is not
13 civilly, criminally, or administratively liable because the health
14 care payer declines to pay for, arrange payment for, or facilitate
15 payment of a health care service or declines to purchase or offer a
16 contract, policy, or product that facilitates payment for a health
17 care service, if the health care service violates the conscience of
18 the payer.

19 (4) A person, public or private institution, or public
20 official shall not discriminate against a health care payer or any
21 person, association, corporation, or other entity operating an
22 existing health care payer or attempt to establish a new health
23 care payer, in any manner, including, but not limited to, denial,
24 deprivation, or disqualification with respect to licensure, aid,
25 assistance, benefit, privilege, or authorization because the health
26 care payer is planning, proposing, or operating a health care payer
27 that declines to pay for or arrange payment of a health care

1 service that violates the conscience of the payer.

2 (5) A public official, agency, or other entity shall not deny
3 any form of aid, assistance, grants, or benefits to, or in any
4 other manner coerce, disqualify, or discriminate against, a health
5 care payer because the existing or proposed health care payer
6 declines to pay for or arrange for the payment of a health care
7 service that violates the conscience of the payer.

8 (6) Subject to subsection (7), this section does not relieve a
9 payer who is an individual and who received a health care service
10 or who is responsible for the payment, in whole or in part, of a
11 health care service that has been received by a patient, from
12 paying for that health care service unless that individual payer
13 provided notice of his or her objection to that health care service
14 under this section before the service was rendered.

15 (7) A payer who is an individual and who received a health
16 care service or who is responsible for the payment, in whole or in
17 part, of a health care service that has been received by a patient
18 is responsible for the individual's share of the payment for a
19 health care service that is provided under any of the following
20 circumstances:

21 (a) The health care service was provided under the stated
22 wishes of the patient.

23 (b) The health care service is stipulated under an existing
24 power of attorney for health care or a durable power of attorney
25 and designation of patient advocate under part 5 of article V of
26 the estates and protected individuals code, 1998 PA 386, MCL
27 700.5501 to 700.5520.

1 (c) It is in the best interests of the patient as determined
2 by or is consistent with the orders of the attending physician or
3 his or her designee.

4 Sec. 9. (1) Except as otherwise provided in subsection (3),
5 not later than 6 months after the effective date of this act, an
6 employer that employs, contracts with, or grants privileges to a
7 health provider shall adopt and implement a policy to address
8 situations in which a health provider has an objection to
9 participating in a health care service as a matter of conscience.
10 An employer that, on the effective date of this act, already has an
11 adopted and implemented policy in effect that complies with this
12 section is not required to adopt and implement a new policy. An
13 employer shall include at least all of the following in a policy
14 required under this subsection:

15 (a) A statement that a health provider will not be penalized
16 for expressing an objection to participating in a health care
17 service as a matter of conscience.

18 (b) A process by which a health provider can request an
19 accommodation to address the health provider's objection to
20 participating in a health care service as a matter of conscience.
21 The employer may require that a health provider make his or her
22 request for an accommodation in writing.

23 (c) A process by which the employer will give a written
24 acknowledgment of the health provider's request for an
25 accommodation under subdivision (b) within 24 hours after receipt
26 of that request. The employer shall include in the written
27 acknowledgment required under this subdivision a description of the

1 timeline for granting or denying the request for an accommodation.

2 (d) A process by which the employer will give notice of the
3 granting or denying of the request for accommodation under
4 subdivision (b). If the request for accommodation is denied, the
5 employer shall give the notice in writing and shall include the
6 reasons for the denial.

7 (2) An employer under subsection (1) shall not ask a
8 prospective health provider regarding his or her objection as a
9 matter of conscience or potential objection as a matter of
10 conscience to participate in a health care service unless
11 participation in that health care service is a regular or
12 substantial portion of the normal course of duties for the employed
13 or contracted position or under staff privileges the prospective
14 health provider is seeking. An employer under subsection (1) shall
15 not refuse to employ, enter into a contract with, or grant
16 privileges to a health provider because the health provider is
17 known by the employer to have previously requested or is currently
18 requesting accommodation under this section unless participation in
19 a particular health care service is a regular or substantial
20 portion of the normal course of duties for the employed or
21 contracted position or under staff privileges.

22 (3) Subsection (1) does not apply and this subsection applies
23 to an employer that is a county medical care facility as defined in
24 section 20104 of the public health code, 1978 PA 368, MCL 333.20104
25 and to an employer that is a nursing home as defined in section
26 20109 of the public health code, 1978 PA 368, MCL 333.20109. A
27 health provider who is employed by, under contract with, or granted

1 privileges by a county medical care facility or nursing home may
2 request accommodation to avoid participating in a health care
3 service to which the health provider objects as a matter of
4 conscience but only for a health care service that is an act to
5 remove a life-sustaining device including a ventilator or apparatus
6 for nonoral hydration or nutrition or is patient care subsequent to
7 the removal of a life-sustaining device. A request by a health
8 provider for accommodation under this subsection is subject to all
9 of the following:

10 (a) The health provider shall make the request for
11 accommodation in writing and give the written request directly to
12 his or her supervisor. The health provider shall include in the
13 written request under this subdivision an explanation of his or her
14 objection and the health care service described in this subsection
15 to which he or she specifically objects as a matter of conscience.

16 (b) A health provider may make the request for accommodation
17 under any of the following conditions:

18 (i) Upon being offered employment, entering into a contract, or
19 privileges being granted.

20 (ii) At the time he or she adopts religious beliefs, moral
21 convictions, or ethical principles under which he or she objects as
22 a matter of conscience to participate in the health care service
23 described in this subsection.

24 (iii) Within 24 hours after he or she is asked to participate or
25 after he or she has received notice or become aware that he or she
26 is scheduled to participate in a health care service described in
27 this subsection to which he or she objects as a matter of

1 conscience.

2 (c) A county medical care facility or nursing home shall
3 retain a health provider's written request submitted under this
4 subsection for the duration of the health provider's employment or
5 period of contract or privileges. A health provider's request for
6 accommodation that is granted under this subsection is valid for
7 the duration of the health provider's employment or period of
8 contract or privileges or until rescinded by the health provider in
9 writing.

10 (d) A county medical care facility or nursing home shall
11 promptly grant or deny a health provider's request for
12 accommodation under this subsection. A county medical care facility
13 or nursing home shall submit a denial of a request for
14 accommodation under this subsection in writing and state the
15 reasons for the denial. Within 7 days after granting a health
16 provider's request for accommodation under this subsection, a
17 county medical care facility or nursing home shall develop a plan
18 for accommodation with the health provider to ensure that the
19 health provider will not be scheduled or requested to participate
20 in a health care service described in this subsection to which he
21 or she objects as a matter of conscience.

22 (e) A county medical care facility or nursing home shall not
23 ask a prospective health provider regarding his or her objection as
24 a matter of conscience or potential objection as a matter of
25 conscience to participate in a health care service described in
26 this subsection unless participation in that health care service is
27 a regular or substantial portion of the normal course of duties for

1 the employed or contracted position or under staff privileges the
2 prospective health provider is seeking.

3 (f) A county medical care facility or nursing home shall not
4 refuse to employ, enter into a contract with, or grant privileges
5 to a health provider because the health provider is known by the
6 county medical care facility or nursing home to have previously
7 requested or is currently requesting accommodation under this
8 section unless participation in a health care service described in
9 this subsection is a regular or substantial portion of the normal
10 course of duties for the employed or contracted position or under
11 staff privileges.

12 (4) The protections afforded to a health provider under this
13 section do not apply to a health provider who has submitted to his
14 or her supervisor a request for an accommodation to avoid
15 participating in a health care service under any of the following
16 circumstances:

17 (a) A patient's condition, in the reasonable medical judgment
18 of an attending physician, medical director, or registered
19 professional nurse, requires immediate action to avoid permanent
20 physical harm to the patient and no other qualified health provider
21 is available to provide that health care service.

22 (b) There is a public health emergency.

23 (c) The health provider first submits a request
24 contemporaneously to a patient's requiring or requesting the
25 objectionable health care service and no other health provider is
26 available to provide the health care service.

27 (d) The request is based on a patient's or a group of

1 patients' status or insurance coverage, ability to pay, or method
2 of payment.

3 (e) The request is made in the presence of a patient seeking a
4 health care service to which the health provider objects.

5 (5) This section does not relieve a health provider from a
6 duty that exists under current standards of acceptable health care
7 practice and procedure to inform a patient of the patient's
8 condition, prognosis, or risk of receiving or forgoing relevant
9 health care services for the condition, including the availability
10 of a health care service to which the health provider objects.

11 (6) A health provider's objection to participating in a health
12 care service as described in subsection (1) or (3) shall not be the
13 basis for any of the following:

14 (a) Civil liability to another person.

15 (b) Criminal action.

16 (c) Administrative or licensure action.

17 (d) Eligibility discrimination against the health provider in
18 a grant, contract, or program, unless participating in the health
19 care service is an objective of the grant, contract, or program.

20 (7) Notwithstanding any law to the contrary, a county medical
21 care facility or nursing home that has granted an accommodation
22 under this section to a full-time health provider may include that
23 provider as a full-time equivalent for the purposes of staffing
24 levels and staffing ratios.

25 Sec. 10. (1) Not later than 6 months after the effective date
26 of this act, a university, college, or educational institution
27 where education and training regarding the provision of a health

1 care service is conducted shall adopt and implement a policy
2 applicable to its students or faculty or staff members that
3 complies with section 9. A university, college, or educational
4 institution described in this section that, on the effective date
5 of this act, already has an adopted and implemented policy in
6 effect that complies with this section and section 9 is not
7 required to adopt and implement a new policy.

8 (2) A university, college, or educational institution
9 described in subsection (1) shall not refuse admission to an
10 individual or penalize a student or a member of its faculty or
11 staff for expressing an objection to participating in a health care
12 service as a matter of conscience or for submitting a request for
13 an accommodation to avoid participating in a health care service as
14 a matter of conscience.

15 Sec. 11. A civil action for damages or reinstatement of
16 employment, or both, may be brought against a person, including,
17 but not limited to, a governmental agency, health facility, or
18 other employer, for penalizing or discriminating against a health
19 provider, including, but not limited to, penalizing or
20 discriminating in hiring, promotion, transfer, a term or condition
21 of employment, licensing, or granting of staff privileges or
22 appointments, solely because that health provider has submitted a
23 request for accommodation under section 9 or 10. Civil damages may
24 be awarded equal to the amount of proven damages and attorney fees.
25 A civil action filed under this section may include a petition for
26 injunctive relief against a person alleged to have penalized or
27 discriminated against a health provider as described in this

1 section.

2 Sec. 12. This act does not excuse or limit the liability of a
3 health care payer, health facility, or health provider for a
4 refusal to participate in a health care service under any of the
5 following circumstances:

6 (a) The payer, facility, or provider has entered into a
7 contract specifically to participate in the health care service.

8 (b) The health care provider was employed, contracted with, or
9 granted privileges by an employer after the effective date of this
10 act and participation in the health care service objected to is a
11 regular or substantial portion of the normal course of duties for
12 the employed or contracted position or under staff privileges.

13 (c) The payer, facility, or provider has accepted federal or
14 state money for the sole purpose of, and specifically conditioned
15 upon, participation in the health care service.

16 Sec. 13. A person who violates this act is responsible for a
17 state civil infraction and may be ordered to pay a fine of not more
18 than \$1,000.00 for each day the violation continues or a fine of
19 not more than \$1,000.00 for each occurrence.

20 Sec. 14. This act does not diminish or affect the rights of a
21 patient residing in a county medical care facility or a nursing
22 home, as those rights are enumerated in sections 20201 to 20203 and
23 section 21765 of the public health code, 1978 PA 368, MCL 333.20201
24 to 333.20203 and 333.21765 and in 42 CFR 483.10.