

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 383 Session of 2011

INTRODUCED BY COX, AUMENT, BLOOM, BOYD, CUTLER, GABLER,  
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REICHLEY, ROAE, ROCK, SCAVELLO, SCHRODER, SIMMONS, STERN,  
SWANGER AND BENNINGHOFF, FEBRUARY 1, 2011

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 1, 2011

AN ACT

1 Providing for freedom of conscience of health care providers and  
2 health care institutions.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Freedom of  
7 Conscience Act.

8 Section 2. Legislative findings and purpose.

9 (a) Findings.--The General Assembly finds as follows:

10 (1) It is the public policy of the Commonwealth to  
11 respect and protect the fundamental right of conscience of  
12 individuals who and institutions which provide health care  
13 services.

14 (2) Without comprehensive protection, rights of  
15 conscience of health care providers or institutions may be  
16 violated in various ways, such as harassment, demotion,  
17 salary reduction, transfer, termination, loss of staffing

1 privileges, denial of aid or benefits and refusal to license  
2 or refusal to certify.

3 (3) It is the purpose of this act to protect the right  
4 of all health care providers and institutions to decline to  
5 counsel, advise, provide, perform, assist or participate in  
6 providing or performing health care services that violate  
7 their consciences.

8 (b) Purpose.--It is the purpose of this act to prohibit all  
9 forms of discrimination, disqualification, coercion, disability  
10 or liability upon such health care providers and institutions  
11 that decline to perform any health care service that violates  
12 their conscience.

### 13 Section 3. Definitions.

14 The following words and phrases when used in this act shall  
15 have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Conscience." The religious, moral or ethical principles  
18 held by a health care provider or a health care institution. A  
19 health care institution's religious, moral or ethical principles  
20 shall be stated in the institution's mission statement,  
21 constitution, bylaws, articles of incorporation, regulations,  
22 directives or other relevant documents or guidelines under which  
23 it operates.

24 "Health care institution." Any public or private  
25 organization, corporation, partnership, sole proprietorship,  
26 association, unincorporated association, agency, network, joint  
27 venture or other entity that is involved in providing health  
28 care services, including, but not limited to, hospitals,  
29 clinics, medical centers, ambulatory surgical centers, private  
30 physicians' offices, pharmacies, nursing homes, university

1 medical schools and nursing schools, medical training facilities  
2 or other institutions or locations wherein health care services  
3 are provided to any person.

4 "Health care provider." Any individual who may be asked or  
5 assigned to participate in any way in a health care service,  
6 including, but not limited to, a physician, physician assistant,  
7 nurse, nurses' aide, medical assistant, hospital employee,  
8 clinic employee, nursing home employee, pharmacist, pharmacy  
9 employee, researcher, medical or nursing school faculty, student  
10 or employee, counselor, social worker or any professional or  
11 paraprofessional, or any other person who furnishes or assists  
12 in the furnishing of health care services.

13 "Health care service." Any phase of patient medical care,  
14 treatment or procedure relating to abortion, artificial birth  
15 control, artificial insemination, assisted reproduction,  
16 emergency contraception, human cloning, human embryonic stem-  
17 cell research, fetal experimentation and sterilization and  
18 including, but not limited to, patient referral, counseling,  
19 therapy, testing, diagnosis, prognosis, research, instruction,  
20 prescribing, dispensing or administering any device, drug, or  
21 medication, surgery, or any other care or treatment rendered by  
22 health care providers or health care institutions.

23 "Participate." To counsel, advise, provide, perform, assist  
24 in, refer or admit for purposes of providing, transfer or  
25 participate in providing, any health care service or any form of  
26 such service.

27 Section 4. Freedom of conscience of health care providers.

28 (a) Freedom of conscience.--A health care provider has the  
29 right not to participate, and no health care provider shall be  
30 required to participate, in a health care service that violates

1 his or her conscience.

2 (b) Immunity from liability.--There shall be no cause of  
3 action against a health care provider for declining to  
4 participate in a health care service that violates his or her  
5 conscience.

6 (c) Discrimination.--It shall be unlawful for any person,  
7 health care provider, health care institution, public service  
8 institution, professional organization, public official or any  
9 board which certifies competency in medical specialties to  
10 discriminate against any health care provider in any manner  
11 based on his or her declining to participate in a health care  
12 service that violates his or her conscience. This shall include,  
13 but is not limited to, termination, transfer or refusal of staff  
14 privileges, refusal of board certification, adverse  
15 administrative action, demotion, loss of career specialty,  
16 reassignment to a different shift, reduction of wages or  
17 benefits, refusal to award any grant, contract or other program,  
18 refusal to provide residency training opportunities, denial,  
19 deprivation, suspension or disqualification with respect to  
20 licensure or government certification or any other penalty,  
21 disciplinary or retaliatory action.

22 Section 5. Freedom of conscience of health care institutions.

23 (a) Freedom of conscience.--A health care institution has  
24 the right not to participate, and no health care institution  
25 shall be required to participate, in a health care service that  
26 violates its conscience.

27 (b) Immunity from liability.--There shall be no cause of  
28 action against a health care institution for declining to  
29 participate in a health care service that violates its  
30 conscience if the institution has a notice clearly posted

1 stating it reserves the right to decline to provide or  
2 participate in health care services that violate its conscience.  
3 A health care institution that declines to provide or  
4 participate in a health care service that violates its  
5 conscience shall not be civilly, criminally or administratively  
6 liable.

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

22 (d) Denial of aid or benefit.--It shall be unlawful for any  
23 public official, agency, institution or entity to deny any  
24 payments, reimbursements for services or any form of aid,  
25 assistance, funding, grants or benefits or in any other manner  
26 to coerce, disqualify or discriminate against any person,  
27 association, corporation or other entity attempting to establish  
28 a new health care institution or operating an existing health  
29 care institution because the existing or proposed health care  
30 institution declines to participate in a health care service

1 contrary to the health care institution's conscience.

2 Section 6. Effect on informed consent requirements.

3 Nothing in this act shall exempt a health care provider or  
4 health care institution from complying with informed consent  
5 requirements mandated by statute regarding the provision of a  
6 health care service.

7 Section 7. Severability.

8 The provisions of this act are severable. If any provision of  
9 this act or its application to any person or circumstance is  
10 held invalid, the invalidity shall not affect other provisions  
11 or applications of this act which can be given effect without  
12 the invalid provision or application.

13 Section 20. Effective date.

14 This act shall take effect in 60 days.