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HOUSE BILL 1687

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Shea, Miloscia, Armstrong, Crouse, Short, Herrera, McCune, Hope, Kristiansen, Kretz, Ericksen, O'Brien, Campbell, and Pearson

Read first time 01/27/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to ensuring health care provider right of  
2 conscience; adding new sections to chapter 9.02 RCW; prescribing  
3 penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that  
6 people and organizations hold different beliefs about whether certain  
7 health care services are morally acceptable. It is the public policy  
8 of the state to respect and protect the right of conscience of all  
9 persons who refuse to obtain, receive, or accept, or who are engaged in  
10 the delivery of, or arrangement for, health care services and medical  
11 care whether acting individually, corporately, or in association with  
12 other persons; and to prohibit all forms of discrimination,  
13 disqualification, coercion, disability, or imposition of liability upon  
14 such persons or entities by reason of their refusing to act contrary to  
15 their conscience or conscientious convictions in refusing to obtain,  
16 receive, accept, or deliver health care services and medical care.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply

1 throughout this section and sections 3 through 13 of this act unless  
2 the context clearly requires otherwise.

3 (1) "Health care" means any phase of patient care, including but  
4 not limited to: Testing; diagnosis; prognosis; ancillary research;  
5 instructions; family planning, counseling, referrals, or any other  
6 advice in connection with the use or procurement of contraceptives and  
7 sterilization or abortion procedures; medication; or surgery or other  
8 care or treatment rendered by a physician or health care facility,  
9 intended for the physical, emotional, and mental well-being of persons.

10 (2) "Physician" means any person who is licensed by the state of  
11 Washington under chapter 18.71 RCW.

12 (3) "Health care personnel" means any pharmacist, pharmacist  
13 assistant, nurse, nurses' aide, medical school student, professional,  
14 paraprofessional, or any other person who furnishes, or assists in the  
15 furnishing of, health care services.

16 (4) "Health care facility" means any public or private hospital,  
17 clinic, center, medical school, medical training institution,  
18 laboratory or diagnostic facility, physician's office, infirmary,  
19 dispensary, ambulatory surgical treatment center, or other institution  
20 or location wherein health care services are provided to any person,  
21 including physician organizations and associations, networks, joint  
22 ventures, and all other combinations of those organizations.

23 (5) "Conscience" means a sincerely held set of moral convictions  
24 arising from belief in and relation to God, or which, though not so  
25 derived, arises from a place in the life of its possessor parallel to  
26 that filled by God among adherents to religious faiths.

27 NEW SECTION. **Sec. 3.** No physician or health care personnel shall  
28 be civilly or criminally liable to any person, estate, public or  
29 private entity, or public official by reason of his or her refusal to  
30 perform, assist, counsel, suggest, recommend, refer, or participate in  
31 any way in any particular form of health care service that is contrary  
32 to the conscience of such physician or health care personnel.

33 NEW SECTION. **Sec. 4.** It is unlawful for any person, public or  
34 private institution, or public official to discriminate against any  
35 person in any manner, including but not limited to, licensing, hiring,  
36 promotion, transfer, staff appointment, hospital, managed care entity,

1 or any other privileges, because of such person's conscientious refusal  
2 to receive, obtain, accept, perform, assist, counsel, suggest,  
3 recommend, refer, or participate in any way in any particular form of  
4 health care services contrary to his or her conscience.

5 NEW SECTION. **Sec. 5.** (1) Nothing in this chapter relieves a  
6 physician from any duty, that may exist under any laws concerning  
7 current standards, normal medical practices, and procedures to inform  
8 his or her patient of the patient's condition, prognosis, and risks.  
9 However, such physician is under no duty to perform, assist, counsel,  
10 suggest, recommend, refer, or participate in any way in any form of  
11 medical practice or health care service that is contrary to his or her  
12 conscience.

13 (2) Nothing in this chapter shall be construed so as to relieve a  
14 physician or other health care personnel from obligations under the law  
15 of providing emergency medical care.

16 NEW SECTION. **Sec. 6.** It is unlawful for any public or private  
17 employer, entity, agency, institution, official, or person, including  
18 but not limited to, a medical, nursing, or other medical training  
19 institution, to deny admission because of, to place any reference in  
20 its application form concerning, to orally question about, to impose  
21 any burdens in terms or conditions of employment on, or to otherwise  
22 discriminate against, any applicant, in terms of employment, admission  
23 to, or participation in any programs for which the applicant is  
24 eligible, or to discriminate in relation thereto, in any other manner,  
25 on account of the applicant's refusal to receive, obtain, accept,  
26 perform, counsel, suggest, recommend, refer, assist, or participate in  
27 any way in any forms of health care services contrary to his or her  
28 conscience.

29 NEW SECTION. **Sec. 7.** It is unlawful for any public official,  
30 guardian, agency, institution, or entity to deny any form of aid,  
31 assistance, or benefits, or to condition the reception in any way of  
32 any form of aid, assistance, or benefits, or in any other manner to  
33 coerce, disqualify, or discriminate against any person otherwise  
34 entitled to such aid, assistance, or benefits, because that person

1 refuses to obtain, receive, accept, perform, assist, counsel, suggest,  
2 recommend, refer, or participate in any way in any form of health care  
3 services contrary to his or her conscience.

4 NEW SECTION. **Sec. 8.** (1) No person, association, or corporation  
5 that owns, operates, supervises, or manages a health care facility  
6 shall be civilly or criminally liable to any person, estate, or public  
7 or private entity by reason of refusal of the health care facility to  
8 permit or provide any particular form of health care service that  
9 violates the facility's conscience as documented in its ethical  
10 guidelines, mission statement, constitution, bylaws, articles of  
11 incorporation, regulations, or other governing documents.

12 (2) Nothing in this chapter shall be construed so as to relieve a  
13 physician or other health care personnel from obligations under the law  
14 of providing emergency medical care.

15 NEW SECTION. **Sec. 9.** It is unlawful for any person, public or  
16 private institution, or public official to discriminate against any  
17 person, association, or corporation attempting to establish a new  
18 health care facility or operating an existing health care facility, in  
19 any manner, including but not limited to, denial, deprivation or  
20 disqualification in licensing, granting of authorizations, aids,  
21 assistance, benefits, medical staff, or any other privileges, and  
22 granting authorization to expand, improve, or create any health care  
23 facility, by reason of the refusal of such person, association, or  
24 corporation planning, proposing, or operating a health care facility,  
25 to permit or perform any particular form of health care service that  
26 violates the health care facility's conscience as documented in its  
27 existing or proposed ethical guidelines, mission statement,  
28 constitution, bylaws, articles of incorporation, regulations, or other  
29 governing documents.

30 NEW SECTION. **Sec. 10.** It is unlawful for any public official,  
31 agency, institution, or entity to deny any form of aid, assistance,  
32 grants, or benefits; or in any other manner to coerce, disqualify, or  
33 discriminate against any person, association, or corporation attempting  
34 to establish a new health care facility or operating an existing health  
35 care facility that otherwise would be entitled to the aid, assistance,

1 grant, or benefit because the existing or proposed health care facility  
2 refuses to perform, assist, counsel, suggest, recommend, refer, or  
3 participate in any way in any form of health care services contrary to  
4 the health care facility's conscience as documented in its existing or  
5 proposed ethical guidelines, mission statement, constitution, bylaws,  
6 articles of incorporation, regulations, or other governing documents.

7 NEW SECTION. **Sec. 11.** Any person, association, corporation,  
8 entity, or health care facility injured by any public or private  
9 person, association, agency, entity, or corporation by reason of any  
10 action prohibited by this chapter may commence a suit therefor, and  
11 shall recover treble damages, including pain and suffering, sustained  
12 by such person, association, corporation, entity, or health care  
13 facility, the costs of the suit, and reasonable attorneys' fees; but in  
14 no case shall recovery be less than two thousand five hundred dollars  
15 for each violation in addition to costs of the suit and reasonable  
16 attorneys' fees. These damage remedies shall be cumulative, and not  
17 exclusive of other remedies afforded under any other state or federal  
18 law.

19 NEW SECTION. **Sec. 12.** Nothing in this chapter shall be construed  
20 as excusing any person, public or private institution, or public  
21 official from liability for refusal to permit or provide a particular  
22 form of health care service if:

23 (1) The person, public or private institution, or public official  
24 has entered into a contract specifically to provide that particular  
25 form of health care service; or

26 (2) The person, public or private institution, or public official  
27 has accepted federal or state funds for the sole purpose of, and  
28 specifically conditioned upon, permitting or providing that particular  
29 form of health care service.

30 NEW SECTION. **Sec. 13.** The exercise of the right of conscience  
31 protected in this chapter is not a practice inconsistent with the peace  
32 and safety of the state for purposes of Article I, section 11 of the  
33 state Constitution.

1        NEW SECTION.    **Sec. 14.**    Sections 1 through 13 of this act are each  
2 added to chapter 9.02 RCW.

3        NEW SECTION.    **Sec. 15.**    If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 16.**    This act is necessary for the immediate  
8 preservation of the public peace, health, morals, or safety, or support  
9 of the state government and its existing public institutions, and takes  
10 effect immediately.

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