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2 95th General Assembly
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4

As Engrossed: S3/20/25

A Bill

SENATE BILL 444

5 By: Senator K. Hammer
6 By: Representative L. Johnson
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE MEDICAL ETHICS AND DIVERSITY ACT;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE MEDICAL ETHICS AND
14 DIVERSITY ACT.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 17-80-503(5), concerning the definition of
20 healthcare service within the Medical Ethics and Diversity Act, is amended to
21 read as follows:

22 (5) "Healthcare service" means medical research or medical care
23 provided to a patient at any time over the entire course of treatment,
24 including without limitation:

- 25 (A) Initial examination;
- 26 (B) Patient referral;
- 27 (C) Counseling or psychological therapy;
- 28 (D) Therapy;
- 29 (E) Testing;
- 30 (F) Research;
- 31 (G) Diagnosis or prognosis;
- 32 (H) Instruction;
- 33 (I) Dispensing or administering, or both, of any drug,
34 medication, or device;
- 35 (J) Set up or performance of a surgery or other procedure;
- 36 (K) Recordkeeping and recordmaking procedures and notes



1 related to treatment; and

2 (L) Other care or services provided by a medical
3 practitioner or healthcare institution;

4
5 SECTION 2. Arkansas Code § 17-80-504 is amended to read as follows:
6 17-80-504. Right of conscience.

7 (a) A medical practitioner, healthcare institution, or healthcare
8 payer:

9 (1) Has the right not to participate in a healthcare service
10 that violates his, her, or its conscience;

11 (2) Is not required to participate in a healthcare service that
12 violates his, her, or its conscience;

13 (3) Is not civilly, criminally, or administratively liable for
14 declining to participate in a healthcare service that violates his, her, or
15 its conscience;

16 (4) Is not civilly, criminally, or administratively liable for
17 the exercise of conscience rights not to participate in a healthcare service
18 by a medical practitioner employed, contracted, or granted admitting
19 privileges by a healthcare institution; and

20 (5) Shall not be discriminated against in any manner based upon
21 his, her, or its declining to participate in a healthcare service that
22 violates his, her, or its conscience.

23 (b) Exercise of the right of conscience is limited to conscience-based
24 objections to a particular healthcare service.

25 (c) A worker in the medical field, whether a contractor or employee,
26 has the right to not facilitate or participate in an abortion, assisted
27 suicide, or gender transition procedure or service in any manner, except as
28 required by subsection (e) of this section and an abortion performed in
29 accordance with the Arkansas Human Life Protection Act, § 5-61-301 et seq.,
30 and the Arkansas Unborn Child Protection Act, § 5-1-401 et seq.

31 (d) A medical practitioner, healthcare institution, or healthcare
32 payer that holds himself, herself, or itself out to the public as religious,
33 states in its governing documents that it has a religious purpose or mission,
34 and has internal operating policies or procedures that implement its
35 religious beliefs has the right to make employment, staffing, contracting,
36 and admitting privilege decisions consistent with his, her, or its religious

1 beliefs.

2 ~~(d)~~(e)(1) The right of conscience described in subsection (a) of this
3 section does not include the right to deny emergency medical care as required
4 under 42 U.S.C. § 1395dd, as existing on January 1, 2021, or any other
5 federal law governing emergency medical treatment, as existing on January 1,
6 2021.

7 (2) Emergency medical care services provided at a hospital that
8 are required by 42 U.S.C. § 1395dd, as existing on January 1, 2025, and
9 performed in accordance with the requirements of the Arkansas Human Life
10 Protection Act, § 5-61-301 et seq., and the Arkansas Unborn Child Protection
11 Act, § 5-1-401 et seq., are not violations of this subchapter.

12 ~~(e)~~(1)(f)(1) When a medical practitioner declines to participate in a
13 healthcare service for reasons of conscience, the medical practitioner shall
14 alert the employing healthcare institution at the earliest reasonable time
15 and comply with any applicable protocol developed under this section.

16 (2)(A) A healthcare institution may develop a protocol for
17 situations in which a medical practitioner declines to participate in a
18 healthcare service.

19 (B) The protocol shall provide for prompt patient access
20 to medical records to facilitate transfer, if needed.

21 (3) This section does not require a healthcare institution or
22 medical practitioner to perform a healthcare service, counsel, or refer a
23 patient regarding a healthcare service that is contrary to the conscience of
24 the medical practitioner or healthcare institution.

25 ~~(f)~~(1)(g)(1) This section does not prohibit an employer or contracting
26 healthcare institution from disclosing the specific healthcare services that
27 an applicant would be required to participate in if he or she is hired for
28 the position or contract.

29 (2) Upon being informed of the specific healthcare services
30 required of the position or contract, the applicant shall disclose whether
31 he, she, or it has a conscience objection to any of those required duties.

32 (3) However, a medical practitioner or healthcare institution
33 shall be able to decline to participate in a healthcare service that violates
34 his, her, or its conscience if the employer or contracting healthcare
35 institution, after employment, adds healthcare services to a medical
36 practitioner's or healthcare institution's duties that would require the

1 medical practitioner or healthcare institution to provide services that
2 violate his, her, or its conscience.

3 ~~(g)-(1)~~(h)(1) A healthcare payer shall file its conscience policies
4 annually with the State Insurance Department by including a comprehensive
5 list by billing code of any and all products, services, and procedures that
6 the healthcare payer shall not pay or make payment for reasons of conscience.

7 (2) The annual filing described in subdivision ~~(g)-(1)~~ (h)(1) of
8 this section shall:

9 (A) Be provided annually to each beneficiary of the
10 healthcare payer and on the website of the healthcare payer; and

11 (B) Not be required for any year in which the healthcare
12 payer will not exercise its conscience rights under this subchapter.

13 ~~(h)~~(i) A healthcare payer shall not use a conscience objection to
14 refuse or reduce payments to a healthcare provider, healthcare institution,
15 or beneficiary for any product, service, or procedure that is not included in
16 the annual filing required under subdivision ~~(g)-(1)~~ (h)(1) of this section.

17 ~~(i)~~(j) A healthcare payer shall not compel by undue influence, fraud,
18 or duress a healthcare provider, healthcare institution, or beneficiary to
19 accept a contract or contract amendment that violates the conscience of the
20 healthcare provider, healthcare institution, or beneficiary.

21 ~~(j)~~(k) The department may issue rules and take any other action
22 necessary or appropriate to enforce subsections ~~(g)-(i)~~ (h)-(j) of this
23 section.

24

25 SECTION 3. Arkansas Code Title 17, Chapter 80, Subchapter 5, is
26 amended to add additional sections to read as follows:

27 17-80-507. Protection from discrimination.

28 (a) A healthcare provider shall not be discriminated against because
29 the healthcare provider:

30 (1) Provided, caused to be provided, or is about to provide or
31 cause to be provided information relating to any act or omission the
32 healthcare provider reasonably believes to be a violation of any provision of
33 this subchapter to:

34 (A) His or her employer;

35 (B) The Attorney General;

36 (C) The Department of Health;

1 (D) Any state agency charged with protecting healthcare
2 rights of conscience;

3 (E) The United States Department of Health and Human
4 Services;

5 (F) The United States Office for Civil Rights; or

6 (G) Any state or federal agency charged with protecting
7 healthcare rights of conscience; or

8 (2) Testified, assisted, or participated, or is about to
9 testify, assist, or participate, in a proceeding concerning a violation.

10 (b) Unless the disclosure is specifically prohibited by law, a medical
11 researcher, physician, or directly participating healthcare provider shall
12 not be discriminated against because the medical researcher, physician, or
13 directly participating healthcare provider discloses information, including
14 by a formal or informal communication, transmission, or discussion, that the
15 medical researcher, physician, or directly participating healthcare provider
16 reasonably believes evidences:

17 (1) Any violation of any law related to medical research or the
18 provision of healthcare services; or

19 (2) Gross mismanagement, a gross waste of funds, an abuse of
20 authority, a practice or method of treatment that may put patient health at
21 risk, or a substantial and specific danger to public health or safety.

22 (c) Notwithstanding any other provision in this section, a complaint
23 by a medical practitioner against another medical practitioner shall be
24 submitted according to the peer review process mandated by the Health Care
25 Quality Improvement Act of 1986, 42 U.S.C. § 11101 et seq., as existing on
26 January 1, 2025.

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28 17-80-508. First Amendment protections.

29 (a)(1) A state licensing, certifying, or recognizing board or entity,
30 or the Department of Health, shall not reprimand, sanction, revoke, or
31 threaten to revoke a license, certification, or registration of, or otherwise
32 discriminate against, a medical practitioner for engaging in speech,
33 expression, or association that is protected from government interference by
34 the First Amendment of the United States Constitution, unless the board,
35 entity, or the department, as applicable, demonstrates by clear and
36 convincing evidence that the medical practitioner's speech, expression, or

1 association was the direct cause of physical harm to a person with whom the
2 medical practitioner had a practitioner-patient relationship within the three
3 (3) years immediately preceding the incident of physical harm.

4 (2) The licensing, certifying, or recognizing board or entity,
5 or the department, as applicable, shall:

6 (A) Provide a medical practitioner with any complaints it
7 has received that may result in the revocation of the medical practitioner's
8 license, certification, or registration, within twenty-one (21) days after
9 receipt of the complaint; and

10 (B) Pay the medical practitioner an administrative penalty
11 of five hundred dollars (\$500) for each day the complaint is not provided to
12 the medical practitioner after the specified twenty-one (21) days.

13 (b) A political subdivision of this state shall not contract with,
14 approve, or require an individual to obtain certifications or credentials
15 issued or approved by a specialty board or other recognizing or certifying
16 entity that revokes the certification of, or refuses to issue certification
17 to, an individual because the individual has engaged in speech, expression,
18 or association that is protected from government interference by the First
19 Amendment of the United States Constitution if the individual was not
20 providing medical advice or treatment to a specific patient that resulted in
21 physical harm to the patient.

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23 */s/K. Hammer*
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