

HOUSE BILL 1364

J3, J2, J5

2lr2537

By: **Delegates Cox, Arikan, Boteler, Mautz, McComas, and Rose**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Freedom of Conscience Act**

3 FOR the purpose of authorizing health care providers and health care practitioners to
4 decline to participate in a health care service that violates their conscience;
5 authorizing health care payors to decline to pay for health care services or health
6 care products that violate their conscience; establishing certain civil, criminal, and
7 administrative immunity; prohibiting a unit of State or local government or a person
8 from discriminating against health care providers, health care practitioners, or
9 health care payors and certain other persons because the person declines or will
10 decline to take certain actions that violate their conscience; and generally relating to
11 the freedom of conscience for health care providers, health care practitioners, and
12 health care payors.

13 BY renumbering

14 Article – Insurance

15 Section 15–801

16 to be Section 15–801.1

17 Annotated Code of Maryland

18 (2017 Replacement Volume and 2021 Supplement)

19 BY adding to

20 Article – Health – General

21 Section 24–1801 through 24–1805 to be under the new subtitle “Subtitle 18. Health
22 Care Freedom of Conscience Act”

23 Annotated Code of Maryland

24 (2019 Replacement Volume and 2021 Supplement)

25 BY adding to

26 Article – Insurance

27 Section 15–801

28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2017 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 15–801 of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 15–801.1.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 18. HEALTH CARE FREEDOM OF CONSCIENCE ACT.

24–1801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CONSCIENCE” MEANS RELIGIOUS, MORAL, OR ETHICAL PRINCIPLES HELD BY A PERSON AND PROVIDED FOR IN A PERSON’S:

(1) RELIGIOUS, MORAL, OR ETHICAL GUIDELINES; OR

(2) MISSION STATEMENT, CONSTITUTION, BYLAWS, ARTICLES OF INCORPORATION, REGULATIONS, OR OTHER RELEVANT DOCUMENTS.

(C) “DISCRIMINATE” INCLUDES TERMINATE, TRANSFER, REFUSING STAFF PRIVILEGES, REFUSING BOARD CERTIFICATION, CARRYING OUT ADVERSE ADMINISTRATIVE ACTION, DEMOTION, CAUSING THE LOSS OF A CAREER SPECIALTY, REASSIGNMENT TO A DIFFERENT SHIFT, REDUCING WAGES, REDUCING BENEFITS, REFUSAL TO AWARD A GRANT OR CONTRACT, REFUSAL TO PROVIDE TRAINING OPPORTUNITIES, ISSUING A PENALTY, OR CONDUCTING ANY OTHER DISCIPLINARY ACTION.

(D) “HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO REGULARLY PARTICIPATES IN A HEALTH CARE SERVICE AND WHO IS NOT A HEALTH CARE PROVIDER, INCLUDING A PHARMACY EMPLOYEE, A RESEARCHER, A MEDICAL OR NURSING SCHOOL FACULTY MEMBER, A STUDENT, OR AN EMPLOYEE OR ANY PROFESSIONAL OR PARAPROFESSIONAL WHO FURNISHES OR ASSISTS IN THE FURNISHING OF HEALTH CARE SERVICES.

(E) “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 19–132 OF THIS ARTICLE.

1 **(F) (1) "HEALTH CARE SERVICE" HAS THE MEANING STATED IN §**
2 **19-132 OF THIS ARTICLE.**

3 **(2) "HEALTH CARE SERVICE" INCLUDES RESEARCH, INSTRUCTION,**
4 **OR ANY OTHER CARE OR TREATMENT RENDERED BY HEALTH CARE PROVIDERS.**

5 **(G) "PARTICIPATE IN A HEALTH CARE SERVICE" MEANS TO COUNSEL,**
6 **ADVISE, PROVIDE, PERFORM, ASSIST IN, REFER FOR, ADMIT FOR PURPOSES OF**
7 **PROVIDING, OR PARTICIPATE IN PROVIDING A HEALTH CARE SERVICE OR ANY FORM**
8 **OF A HEALTH CARE SERVICE.**

9 **(H) "PAYOR" HAS THE MEANING STATED IN § 19-132 OF THIS ARTICLE.**
10 **24-1802.**

11 **(A) THE GENERAL ASSEMBLY FINDS THAT:**

12 **(1) IT IS THE PUBLIC POLICY OF THE STATE TO RESPECT AND**
13 **PROTECT THE FUNDAMENTAL RIGHT OF CONSCIENCE OF HEALTH CARE PROVIDERS**
14 **AND HEALTH CARE PRACTITIONERS; AND**

15 **(2) WITHOUT COMPREHENSIVE PROTECTION, HEALTH CARE RIGHTS**
16 **OF CONSCIENCE MAY BE VIOLATED IN VARIOUS WAYS, INCLUDING HARASSMENT,**
17 **DEMOTION, SALARY REDUCTION, TRANSFER, TERMINATION, LOSS OF STAFFING**
18 **PRIVILEGES, DENIAL OF AID OR BENEFITS, AND REFUSAL TO LICENSE OR REFUSAL**
19 **TO CERTIFY.**

20 **(B) BASED ON THE FINDINGS IN SUBSECTION (A) OF THIS SECTION, IT IS THE**
21 **PURPOSE OF THIS SUBTITLE TO:**

22 **(1) PROTECT AS A BASIC CIVIL RIGHT, THE RIGHT OF ALL HEALTH**
23 **CARE PROVIDERS, HEALTH CARE PRACTITIONERS, AND PAYORS TO DECLINE TO**
24 **COUNSEL, ADVISE, PAY FOR, PROVIDE, PERFORM, ASSIST, OR PARTICIPATE IN**
25 **PROVIDING OR PERFORMING HEALTH CARE SERVICES THAT VIOLATE THEIR**
26 **CONSCIENCES, INCLUDING:**

27 **(I) ABORTION;**

28 **(II) ARTIFICIAL BIRTH CONTROL;**

29 **(III) STERILIZATION;**

30 **(IV) ARTIFICIAL INSEMINATION;**

1 (V) ASSISTED REPRODUCTION;

2 (VI) HUMAN EMBRYONIC STEM CELL RESEARCH AND FETAL
3 EXPERIMENTATION;

4 (VII) HUMAN CLONING; AND

5 (VIII) PHYSICIAN-ASSISTED SUICIDE AND EUTHANASIA; AND

6 (2) PROHIBIT ALL FORMS OF DISCRIMINATION, DISQUALIFICATION,
7 COERCION, DISABILITY, OR LIABILITY ON HEALTH CARE PROVIDERS, HEALTH CARE
8 PRACTITIONERS, AND PAYORS THAT DECLINE TO PERFORM OR PROVIDE A HEALTH
9 CARE SERVICE THAT VIOLATES THEIR CONSCIENCES.

10 24-1803.

11 (A) (1) A HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER MAY
12 DECLINE TO PARTICIPATE IN A HEALTH CARE SERVICE THAT VIOLATES THE
13 CONSCIENCE OF THE HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER.

14 (2) A HEALTH CARE PAYOR MAY DECLINE TO PAY OR ARRANGE
15 PAYMENT FOR A HEALTH CARE SERVICE OR HEALTH CARE PRODUCT THAT VIOLATES
16 THE CONSCIENCE OF THE PAYOR.

17 (B) (1) A HEALTH CARE PROVIDER OR A HEALTH CARE PRACTITIONER IS
18 NOT CIVILLY, CRIMINALLY, OR ADMINISTRATIVELY LIABLE FOR DECLINING TO
19 PARTICIPATE IN A HEALTH CARE SERVICE THAT VIOLATES THE CONSCIENCE OF THE
20 HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER.

21 (2) A HEALTH CARE PROVIDER THAT IS A HEALTH CARE FACILITY IS
22 NOT CIVILLY, CRIMINALLY, OR ADMINISTRATIVELY LIABLE FOR DECLINING TO
23 PARTICIPATE IN A HEALTH CARE SERVICE IF THE HEALTH CARE FACILITY PROVIDES
24 A CONSENT FORM TO BE SIGNED BY A PATIENT BEFORE ADMISSION TO THE FACILITY
25 STATING THAT THE HEALTH CARE FACILITY RESERVES THE RIGHT TO DECLINE TO
26 PARTICIPATE IN A HEALTH CARE SERVICE THAT VIOLATES ITS CONSCIENCE.

27 (3) A PAYOR OR PERSON THAT OWNS, OPERATES, SUPERVISES, OR
28 MANAGES A PAYOR IS NOT CIVILLY OR CRIMINALLY LIABLE FOR DECLINING TO PAY
29 FOR OR ARRANGE PAYMENT FOR A HEALTH CARE SERVICE OR HEALTH CARE
30 PRODUCT THAT VIOLATES THE CONSCIENCE OF THE HEALTH CARE PAYOR.

31 (C) A UNIT OF STATE OR LOCAL GOVERNMENT OR PERSON MAY NOT

1 DISCRIMINATE AGAINST:

2 (1) A HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER
3 BASED ON THE HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER
4 DECLINING TO PARTICIPATE IN A HEALTH CARE SERVICE THAT VIOLATES THE
5 CONSCIENCE OF THE HEALTH CARE PROVIDER OR HEALTH CARE PRACTITIONER;

6 (2) A HEALTH CARE PROVIDER OR A PERSON ATTEMPTING TO
7 ESTABLISH A HEALTH CARE PROVIDER BECAUSE THE PROPOSED OR EXISTING
8 HEALTH CARE PROVIDER DECLINES OR WILL DECLINE TO PARTICIPATE IN A HEALTH
9 CARE SERVICE THAT VIOLATES THE CONSCIENCE OF THE HEALTH CARE PROVIDER;
10 OR

11 (3) A PAYOR OR A PERSON ATTEMPTING TO ESTABLISH A PAYOR
12 BECAUSE THE PROPOSED OR EXISTING PAYOR DECLINES OR WILL DECLINE TO PAY
13 FOR OR ARRANGE PAYMENT FOR A HEALTH CARE SERVICE OR PRODUCT THAT
14 VIOLATES THE CONSCIENCE OF THE PAYOR.

15 24-1804.

16 (A) (1) A CIVIL ACTION FOR DAMAGES OR INJUNCTIVE RELIEF, OR BOTH,
17 MAY BE BROUGHT AGAINST A PERSON OR A UNIT OF STATE OR LOCAL GOVERNMENT
18 FOR A VIOLATION OF THIS SUBTITLE.

19 (2) IT IS NOT A DEFENSE TO A CLAIM ARISING OUT OF THE VIOLATION
20 THAT A VIOLATION WAS NECESSARY TO PREVENT ADDITIONAL BURDEN OR EXPENSE
21 ON A HEALTH CARE PROVIDER.

22 (B) (1) ON A FINDING OF A VIOLATION OF THIS SUBTITLE BY A COURT OF
23 COMPETENT JURISDICTION, THE AGGRIEVED PARTY IS ENTITLED TO RECOVER:

24 (I) TREBLE DAMAGES, INCLUDING PAIN AND SUFFERING
25 SUSTAINED BY THE INDIVIDUAL, ASSOCIATION, CORPORATION, ENTITY, OR HEALTH
26 CARE PROVIDER;

27 (II) COURT COSTS; AND

28 (III) REASONABLE COUNSEL FEES.

29 (2) A RECOVERY BY AN AGGRIEVED PARTY IN AN ACTION BROUGHT
30 UNDER THIS SECTION SHALL BE NOT LESS THAN \$5,000 FOR EACH VIOLATION IN
31 ADDITION TO COURT COSTS AND REASONABLE ATTORNEY'S FEES.

