

HOUSE BILL NO. HB0234

Medical Ethics Defense Act.

Sponsored by: Representative(s) Ottman, Jennings,
Pendergraft, Penn and Smith

A BILL

for

1 AN ACT relating to public health and safety; allowing
2 health care providers, health care institutions and health
3 care payers the right to refuse to participate in or pay
4 for health care services as specified; prohibiting
5 discrimination; providing immunity; providing definitions;
6 specifying applicability; requiring rulemaking; and
7 providing for effective dates.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-33-101 through 35-33-106 are
12 created to read:

13

14

CHAPTER 33

15

MEDICAL ETHICS DEFENSE ACT

1

2 **35-33-101. Short title.**

3

4 This chapter shall be known and may be cited as the
5 "Medical Ethics Defense Act."

6

7 **35-33-102. Definitions.**

8

9 (a) As used in this act:

10

11 (i) "Conscience" means the ethical, moral or
12 religious beliefs or principles held by any health care
13 provider, health care institution or health care payer.
14 Conscience with respect to health care institutions and
15 health care payers shall be determined by reference to the
16 health care institution's or health care payer's governing
17 documents, including any published ethical, moral or
18 religious guidelines or directives, mission statements,
19 constitutions, articles of incorporation, bylaws, policies
20 or regulations;

21

22 (ii) "Discrimination" means any person taking
23 adverse action against or communicating a threat of adverse

1 action to any health care provider, health care institution
2 or health care payer as a result of a decision by the
3 health care provider, health care institution or health
4 care payer to decline to participate in or pay for any
5 health care service on the basis of the conscience of the
6 health care provider, health care institution or health
7 care payer. The term does not include a person declining to
8 use or purchase health care services from a specific health
9 care provider, health care institution or health care payer
10 if that health care provider, health care institution or
11 health care payer exercises the right to refuse to
12 participate in or pay for health care services based on its
13 conscience;

14

15 (iii) "Health care institution" means as defined
16 in W.S. 35-22-402(a)(x);

17

18 (iv) "Health care payer" means any employer,
19 health plan, health maintenance organization, insurance
20 company or management services organization or any other
21 entity that pays for or arranges for the payment of any
22 health care service provided to any patient whether the
23 payment is made in whole or in part;

1

2 (v) "Health care provider" means any person or
3 individual who may be or is asked to participate in any
4 health care service including but not limited to doctors,
5 nurse practitioners, physician assistants, nurses, nurse
6 aides, allied health professionals, medical assistants,
7 hospital employees, clinic employees, nursing home
8 employees, pharmacists, pharmacy technicians and employees,
9 medical school faculty and students, nursing school faculty
10 and students, psychology and counseling faculty and
11 students, medical researchers, laboratory technicians,
12 psychologists, psychiatrists, counselors, mental health
13 professionals, social workers or any other person who
14 facilitates or participates in a health care service;

15

16 (vi) "Health care service" means medical care
17 provided to any patient at any time over the entire course
18 of treatment or medical research including but not limited
19 to testing, diagnosis, referral, dispensing or
20 administering any drug, medication or device, psychological
21 therapy or counseling, research, prognosis, therapy, record
22 making procedures, notes relating to treatment, set up of

1 performance of a surgery or procedure or any other medical
2 care or services provided by any health care provider;

3

4 (vii) "Participate" in a health care service
5 means to provide, perform, assist with, facilitate, refer
6 for, counsel for, advise with regard to, admit for the
7 purposes of providing or take part in any way in providing
8 any health care service or any form of such health care
9 service;

10

11 (viii) "This act" means W.S. 35-33-101 through
12 35-33-106.

13

14 **35-33-103. Rights of conscience of health care**
15 **providers, health care institutions and health care payers.**

16

17 (a) Each health care provider, health care
18 institution and health care payer shall have the right to
19 refuse to participate in or pay for any health care service
20 that violates the health care provider's, health care
21 institution's or health care payer's conscience. The
22 exercise of the right to refuse to participate in or pay
23 for any health care service as provided in this subsection

1 is limited to conscience-based objections to a particular
2 health care service.

3

4 (b) Notwithstanding any other provision of this act,
5 a religious health care provider, health care institution
6 or health care payer that holds itself out to the public as
7 religious, states in its governing documents that it has a
8 religious purpose or mission and has internal operating
9 policies and procedures that implement its religious
10 beliefs shall have the right to make employment, staffing,
11 contracting and admitting privilege decisions consistent
12 with its religious beliefs.

13

14 (c) A health care provider may not be scheduled for,
15 assigned or requested to directly or indirectly perform,
16 facilitate, refer for or participate in any abortion unless
17 the practitioner first affirmatively consents in writing to
18 perform, facilitate, refer for or participate in the
19 abortion.

20

21 (d) Each health care institution shall adopt internal
22 policies, programs, plans or procedures for each health
23 care provider employed, contracted or granted admitting

1 privileges by the health care institution, to exercise his
2 right to refuse to participate in a health care service
3 based on his conscience under subsection (a) of this
4 section.

5

6 (e) The right to refuse to participate in a health
7 care service based on conscience provided in subsection (a)
8 of this section shall not be construed to waive or modify
9 any duty of a health care provider or health care
10 institution to provide other health care services or
11 provide emergency medical treatment under 42 U.S.C. §
12 1395dd.

13

14 (f) Each health care payer shall adopt internal
15 policies, programs, plans or procedures for:

16

17 (i) Each health care payer exercising its right
18 to refuse to pay for a health care service based on its
19 conscience under subsection (a) of this section; and

20

21 (ii) The resolution of conflicts arising between
22 a health care payer exercising its right to refuse to pay
23 for a health care service based on its conscience and a

1 health care institution or health care provider who
2 provided the health care service to the patient.

3

4 (g) A health care payer shall file its conscience
5 policies annually with the state insurance department by
6 including a comprehensive list by billing code of any
7 products, services and procedures that the health care
8 payer shall not pay or make payment based on its
9 conscience. The annual filing shall be submitted annually
10 to each beneficiary of the health care payer.

11

12 (h) A health care payer shall not refuse or reduce
13 payments based on its conscience to a health care provider,
14 health care institution or beneficiary for any product,
15 service or procedure that is not included in the annual
16 filing required under subsection (g) of this section.

17

18 **35-33-104. Discrimination prohibited.**

19

20 (a) No person or entity shall discriminate against
21 any health care provider, health care institution or health
22 care payer for exercising the right to refuse to

1 participate in or pay for health care services based on its
2 conscience under this act.

3

4 (b) No person or entity shall discriminate against a
5 health care provider or health care institution for:

6

7 (i) Providing the health care provider's
8 employer, the department of health or the attorney general
9 of Wyoming, information relating to any violation of or any
10 act or omission the health care provider or health care
11 institution reasonably believes to be a violation of any
12 provision of this act; or

13

14 (ii) Testifying, assisting, participating or
15 agreeing to testify, assist or participate in a proceeding
16 concerning a violation of this section.

17

18 (c) Unless the disclosure is specifically prohibited
19 by law, no health care provider shall be subject to
20 discrimination for disclosing any information that the
21 health care provider reasonably believes violates:

22

1 (i) Any federal or state law, rule or
2 regulation;

3

4 (ii) Any standard of care or other ethical
5 guidelines for the provision of any health care service; or

6

7 (iii) Gross mismanagement, a gross waste of
8 funds, an abuse of authority, practice or methods of
9 treatment that may place a patient's health at risk or a
10 substantial and specific danger to public health or safety.

11

12 (d) A board, certifying or licensing agency or the
13 department of health may not reprimand, sanction or revoke
14 or threaten to revoke a license, certificate, certification
15 or registration of a health care provider for engaging in
16 speech or expressive activity protected by the first
17 amendment to the United States constitution unless the
18 board, certifying or licensing agency or the department of
19 health demonstrates beyond a reasonable doubt that the
20 health care provider's speech was the direct cause of
21 physical harm to a person that the health care provider had
22 established a health care provider-patient relationship

1 within the past three (3) years before the incident of
2 physical harm.

3

4 (e) A board, certifying or licensing agency or the
5 department of health shall provide a health care provider
6 with a complaint to revoke the health care provider's
7 license, certificate, certification or registration within
8 fourteen (14) days after receipt of the complaint. A board,
9 certifying or licensing agency or the department of health
10 shall pay the health care provider an administrative
11 penalty of five hundred dollars (\$500.00) for each week the
12 complaint is not provided to the health care provider after
13 the fourteen (14) days as provided by this subsection.

14

15 **35-33-105. Immunity.**

16

17 (a) No health care provider, health care institution
18 or health care payer shall be subject to civil or criminal
19 liability for exercising the right to refuse to participate
20 in or pay for any health care service based on its
21 conscience.

22

1 (b) No health care institution shall be subject to
2 civil or criminal liability for a health care provider
3 employed, contracted or granted admitting privileges by the
4 health care institution for the health care provider
5 exercising his right to refuse to participate in a health
6 care service based on his conscience.

7

8 **35-33-106. Civil remedies.**

9

10 A civil action for damages or injunctive relief, or both,
11 may be brought by a health care provider, health care
12 institution or health care payer in a court of competent
13 jurisdiction for any alleged violation of any provision of
14 this act.

15

16 **Section 2.** This act shall not apply to health care
17 services and payment obligations for which the obligation
18 to provide health care services or payment arose before
19 July 1, 2023.

20

21 **Section 3.** The department of insurance shall
22 promulgate all rules necessary to implement the provisions
23 of this act.

1

2 **Section 4.** Any provision of this act held to be
3 invalid or unenforceable by its terms or as applied to any
4 person or circumstances shall be construed to provide for
5 the maximum effect permitted by law unless such holding
6 shall be one of invalidity or unenforceability, in which
7 event such provision shall be deemed severable and shall
8 not affect the remainder of the provision or the
9 application of such provision to other persons not
10 similarly situated or to other dissimilar circumstances.

11

12 **Section 5.** This act shall not be construed to
13 supersede any law of the state that is equally as
14 protective of the conscience or more protective of the
15 conscience than this act.

16

1 **Section 6.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2023.

5

6 (b) Sections 3 and 6 of this act are effective
7 immediately upon completion of all acts necessary for a
8 bill to become law as provided by Article 4, Section 8 of
9 the Wyoming Constitution.

10

11

(END)

12