

1 H.497

2 Introduced by Representatives Donahue of Northfield, Hango of Berkshire,
3 Higley of Lowell, Martel of Waterford, and Rosenquist of
4 Georgia

5 Referred to Committee on

6 Date:

7 Subject: Health; health care decision making; health care providers; health care
8 institutions; conscience protections

9 Statement of purpose of bill as introduced: This bill proposes to enact the
10 Health Care Freedom of Conscience Act to protect the conscience rights of
11 health care providers and health care institutions.

12 An act relating to protecting health care providers' rights of conscience

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 18 V.S.A. chapter 233 is added to read:

15 CHAPTER 233. HEALTH CARE FREEDOM OF CONSCIENCE ACT

16 § 9751. TITLE

17 This chapter shall be known and may be cited as the "Health Care Freedom
18 of Conscience Act."

19 § 9752. FINDINGS AND PURPOSE

20 (a) The General Assembly finds that:

1 (1) It is the public policy of the State of Vermont to respect and protect
2 the fundamental right of conscience of health care providers.

3 (2) Without comprehensive protection, health care rights of conscience
4 may be violated in various ways, such as harassment, demotion, salary
5 reduction, transfer, termination, loss of staffing privileges, denial of aid or
6 benefits, and refusal to license or refusal to certify.

7 (b) Based on the findings set forth in subsection (a) of this section, it is the
8 purpose of this act to:

9 (1) Protect as a basic civil right the right of all health care providers and
10 institutions to decline to counsel, advise, provide, perform, assist, or participate
11 in providing or performing health care services that violate their consciences.
12 These health care services may include abortion, artificial birth control,
13 sterilization, artificial insemination, assisted reproduction, human embryonic
14 stem-cell research, fetal experimentation, human cloning, physician-assisted
15 suicide, and euthanasia.

16 (2) Prohibit all forms of discrimination, disqualification, coercion,
17 disability, or liability upon health care providers and institutions that decline to
18 perform or provide any health care service that violates their consciences.

19 § 9753. DEFINITIONS

20 As used in this chapter:

1 (1) “Conscience” means the religious, moral, or ethical principles held
2 by a health care provider or a health care institution. For purposes of this
3 chapter, the conscience of a health care institution shall be determined by
4 reference to its existing or proposed religious, moral, or ethical guidelines;
5 mission statement; constitution; bylaws; articles of incorporation; rules or
6 regulations; or other relevant documents.

7 (2) “Health care institution” means any public or private organization,
8 corporation, partnership, sole proprietorship, association, agency, network,
9 joint venture, or other entity that is involved in providing health care services,
10 including hospitals, clinics, medical centers, ambulatory surgical centers,
11 private physicians’ offices, pharmacies, nursing homes, university medical
12 schools, nursing schools, medical training facilities, and other institutions and
13 locations in which health care services are provided to any person.

14 (3) “Health care provider” means any individual who may be asked to
15 participate in any way in a health care service, including a physician; physician
16 assistant; nurse; nursing assistant; medical assistant; hospital employee; clinic
17 employee; nursing home employee; pharmacist; pharmacy employee;
18 researcher; medical or nursing school faculty, student, or employee; counselor;
19 social worker; or any professional, paraprofessional, or other individual who
20 furnishes or assists in the furnishing of health care services.

1 (4) “Health care service” means any phase of patient medical care,
2 treatment, or procedure, including patient referral; counseling; therapy; testing;
3 research; instruction; prescribing, dispensing, or administering any device,
4 drug, or medication; surgery; or any other care or treatment rendered by health
5 care providers or health care institutions.

6 (5) “Participate” in a health care service means to counsel, advise,
7 provide, perform, assist in, refer for, admit for purposes of providing, or
8 participate in providing any health care service or any form of a health care
9 service.

10 (6) “This act” means the Health Care Freedom of Conscience Act
11 established in this chapter.

12 § 9754. FREEDOM OF CONSCIENCE OF HEALTH CARE PROVIDERS

13 (a) Freedom of conscience. A health care provider has the right not to
14 participate, and no health care provider shall be required to participate, in a
15 health care service that violates the provider’s conscience.

16 (b) Immunity from liability. No health care provider shall be civilly,
17 criminally, or administratively liable for declining to participate in a health
18 care service that violates the provider’s conscience.

19 (c) Discrimination.

20 (1) It shall be unlawful for any person, health care provider, health care
21 institution, public or private institution, public official, or any board that

1 certifies competency in medical specialties to discriminate against any health
2 care provider in any manner based on the provider declining to participate in a
3 health care service that violates the provider's conscience.

4 (2) For purposes of this act, discrimination includes termination;
5 transfer; refusal of staff privileges; refusal of board certification; adverse
6 administrative action; demotion; loss of career specialty; reassignment to a
7 different shift; reduction of wages or benefits; refusal to award any grant,
8 contract, or other program; refusal to provide residency training opportunities;
9 giving an incomplete or failing grade to a student; denying a student an earned
10 distinction or the opportunity for distinction; denying a student the opportunity
11 for graduation; or any other penalty or retaliatory disciplinary action.

12 § 9755. FREEDOM OF CONSCIENCE OF HEALTH CARE INSTITUTIONS

13 (a) Freedom of conscience. A health care institution has the right not to
14 participate, and no health care institution shall be required to participate, in a
15 health care service that violates its conscience.

16 (b) Immunity from liability. A health care institution that declines to
17 provide or participate in a health care service that violates its conscience shall
18 not be civilly, criminally, or administratively liable if the institution provides a
19 consent form to be signed by a patient before admission to the institution
20 stating that it reserves the right to decline to provide or participate in health
21 care services that violate its conscience.

1 (c) Discrimination. It shall be unlawful for any person, public or private
2 institution, or public official to discriminate against any health care institution
3 or any person, association, corporation, or other entity attempting to establish a
4 new health care institution or operating an existing health care institution, in
5 any manner, including any denial, deprivation, or disqualification with respect
6 to license; any aid, assistance, benefit, or privilege, including staff privileges;
7 or any authorization, including authorization to create, expand, improve,
8 acquire, affiliate, or merge with any health care institution because the
9 institution or person, association, or corporation planning, proposing, or
10 operating a health care institution declines to participate in a health care
11 service that violates the health care institution’s conscience.

12 (d) Denial of aid or benefit. It shall be unlawful for any public official,
13 agency, institution, or entity to deny any form of aid, assistance, grants, or
14 benefits or in any other manner to coerce, disqualify, or discriminate against
15 any person, association, corporation, or other entity attempting to establish a
16 new health care institution or operating an existing health care institution
17 because the existing or proposed health care institution declines to participate
18 in a health care service that violations the institution’s conscience.

19 § 9756. CIVIL REMEDIES

20 (a) Civil action. A civil action for damages or injunctive relief, or both,
21 may be brought for a violation of any provision of this act. It shall not be a

1 defense to any claim arising out of a violation of this act that the violation was
2 necessary to prevent additional burden or expense on any other health care
3 provider, health care institution, individual, or patient.

4 (b) Damage remedies. Any individual, association, corporation, entity, or
5 health care institution injured by any public official, private individual,
6 association, agency, entity, or corporation by reason of any conduct prohibited
7 by this act may commence a civil action. Upon finding a violation of this act,
8 the aggrieved party shall be entitled to recover treble damages, including pain
9 and suffering sustained by the individual, association, corporation, entity, or
10 health care institution; the costs of the action; and reasonable attorney's fees.

11 These damage remedies shall be cumulative and not exclusive of other
12 remedies afforded under any other State or federal law.

13 (c) Injunctive remedies. The court in a civil action brought pursuant to this
14 section may award injunctive relief, including ordering reinstatement of a
15 health care provider to the provider's prior employment position.

16 Sec. 2. EFFECTIVE DATE

17 This act shall take effect on July 1, 2022.