
SENATE BILL 5851

State of Washington

59th Legislature

2005 Regular Session

By Senators Mulliken, Swecker, Schmidt and Oke

Read first time 02/10/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to ensuring health care provider and insurer right
2 of 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
10 in, the delivery of, arrangement for, or payment of health care
11 services and medical care whether acting individually, corporately, or
12 in association with other persons; and to prohibit all forms of
13 discrimination, disqualification, coercion, disability, or imposition
14 of liability upon such persons or entities by reason of their refusing
15 to act contrary to their conscience or conscientious convictions in
16 refusing to obtain, receive, accept, deliver, pay for, or arrange for
17 the payment of health care services and medical care.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this section and sections 3 through 18 of this act unless
3 the context clearly requires otherwise.

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

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

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

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

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

28 (6) "Health care payer" means a health maintenance organization,
29 insurance company, management services organization, or any other
30 entity that pays for or arranges for the payment of any health care or
31 medical care service, procedure, or product.

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

1 any form of aid, assistance, or benefits, or in any other manner to
2 coerce, disqualify, or discriminate against any person otherwise
3 entitled to such aid, assistance, or benefits, because that person
4 refuses to obtain, receive, accept, perform, assist, counsel, suggest,
5 recommend, refer, or participate in any way in any form of health care
6 services contrary to his or her conscience.

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

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

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

33 NEW SECTION. **Sec. 10.** It is unlawful for any public official,
34 agency, institution, or entity to deny any form of aid, assistance,
35 grants, or benefits; or in any other manner to coerce, disqualify, or

1 discriminate against any person, association, or corporation attempting
2 to establish a new health care facility or operating an existing health
3 care facility that otherwise would be entitled to the aid, assistance,
4 grant, or benefit because the existing or proposed health care facility
5 refuses to perform, assist, counsel, suggest, recommend, refer, or
6 participate in any way in any form of health care services contrary to
7 the health care facility's conscience as documented in its existing or
8 proposed ethical guidelines, mission statement, constitution, bylaws,
9 articles of incorporation, regulations, or other governing documents.

10 NEW SECTION. **Sec. 11.** No health care payer and no person,
11 association, or corporation that owns, operates, supervises, or manages
12 a health care payer shall be civilly or criminally liable to any
13 person, estate, or public or private entity by reason of refusal of the
14 health care payer to pay for or arrange for the payment of any
15 particular form of health care services that violate the health care
16 payer's conscience as documented in its ethical guidelines, mission
17 statement, constitution, bylaws, articles of incorporation,
18 regulations, or other governing documents.

19 NEW SECTION. **Sec. 12.** It is unlawful for any person, public or
20 private institution, or public official to discriminate against any
21 person, association, or corporation: (1) Attempting to establish a new
22 health care payer; or (2) operating an existing health care payer, in
23 any manner, including but not limited to: Denial, deprivation, or
24 disqualification in licensing; granting of authorizations, aids,
25 assistance, benefits, or any other privileges; and granting
26 authorization to expand, improve, or create any health care payer,
27 because the person, association, or corporation planning, proposing, or
28 operating a health care payer refuses to pay for or arrange for the
29 payment of any particular form of health care services that violates
30 the health care payer's conscience as documented in the existing or
31 proposed ethical guidelines, mission statement, constitution, bylaws,
32 articles of incorporation, regulations, or other governing documents.

33 NEW SECTION. **Sec. 13.** It is unlawful for any public official,
34 agency, institution, or entity to deny any form of aid, assistance,
35 grants, or benefits; or in any other manner to coerce, disqualify, or

1 discriminate against any person, association, or corporation attempting
2 to establish a new health care payer or operating an existing health
3 care payer that otherwise would be entitled to the aid, assistance,
4 grant, or benefit because the existing or proposed health care payer
5 refuses to pay for, arrange for the payment of, or participate in any
6 way in any form of health care services contrary to the health care
7 payer's conscience as documented in its existing or proposed ethical
8 guidelines, mission statement, constitution, bylaws, articles of
9 incorporation, regulations, or other governing documents.

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

22 NEW SECTION. **Sec. 15.** If an insurer provides any insurance
23 coverage, services, or benefits to any employer or individual, the
24 insurer may elect but may not be required to provide the employer or
25 individual contraception or abortion related coverage, services, or
26 benefits.

27 NEW SECTION. **Sec. 16.** If an employer provides any insurance
28 coverage, services, or benefits for any employee or any dependent of
29 any employee by paying the costs or premiums in whole or in part for
30 such coverage, services, or benefits or by participating in negotiating
31 the terms of such coverage, services, or benefits, the employer may
32 elect but may not be required to provide the employee contraception or
33 abortion related coverage, services, or benefits.

1 NEW SECTION. **Sec. 17.** If an employer provides disability
2 coverage, services, or benefits, including sick leave plans or
3 temporary disability benefit plans, for any employee by paying the
4 costs or premiums in whole or in part for such coverage, services, or
5 benefits or by participating in negotiating the terms of such coverage,
6 services, or benefits, the employer may elect but may not be required
7 to provide the employee such coverage, services, or benefits for any
8 illness or disability caused or contributed to by any contraception or
9 abortion related services.

10 NEW SECTION. **Sec. 18.** Nothing in this chapter shall be construed
11 as excusing any person, public or private institution, or public
12 official from liability for refusal to permit or provide a particular
13 form of health care service if:

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

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

21 NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act are each
22 added to chapter 9.02 RCW.

23 NEW SECTION. **Sec. 20.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
28 preservation of the public peace, health, morals, or safety, or support
29 of the state government and its existing public institutions, and takes
30 effect immediately.

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