

SENATE BILL No. 1062

March 7, 2000, Introduced by Senators SCHUETTE, GOUGEON, MC COTTER, JAYE, MC MANUS, HAMMERSTROM, SHUGARS, SIKKEMA, STEIL, VAN REGENMORTER, ROGERS, GOSCHKA, EMMONS and DUNASKISS and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20199 (MCL 333.20199) and by adding sections
16282 and 20185.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 16282. (1) PURSUANT TO THIS SECTION, A HEALTH CARE
2 PROVIDER MAY ASSERT, ON A PROFESSIONAL, ETHICAL, MORAL, OR RELI-
3 GIOUS GROUND, A CONSCIENTIOUS OBJECTION TO PARTICIPATING IN A
4 HEALTH CARE SERVICE.
5 (2) A HEALTH CARE PROVIDER SHALL NOTIFY HIS OR HER EMPLOYER
6 IN WRITING OF A CONSCIENTIOUS OBJECTION DESCRIBED IN SUBSECTION
7 (1) THAT THE INDIVIDUAL HAS TO PARTICIPATING IN A HEALTH CARE
8 SERVICE UPON LEARNING THAT HE OR SHE MAY HAVE TO PARTICIPATE IN
9 THAT HEALTH CARE SERVICE OR AT ANY OTHER TIME THAT THE HEALTH
10 CARE PROVIDER CONSIDERS NECESSARY TO SUBMIT AN OBJECTION.

1 (3) A HEALTH CARE PROVIDER'S WRITTEN CONSCIENTIOUS OBJECTION
2 FILED UNDER SUBSECTION (2) SHALL BE RETAINED BY THE HEALTH CARE
3 PROVIDER'S EMPLOYER AND IS VALID FOR THE DURATION OF THE HEALTH
4 CARE PROVIDER'S EMPLOYMENT OR UNTIL RESCINDED BY THE HEALTH CARE
5 PROVIDER IN WRITING.

6 (4) IF A HEALTH CARE PROVIDER HAS NOT SUBMITTED A WRITTEN
7 CONSCIENTIOUS OBJECTION UNDER SUBSECTION (2) BEFORE BEING ASKED
8 TO PARTICIPATE IN A HEALTH CARE SERVICE, THE HEALTH CARE PROVIDER
9 SHALL NOTIFY THE EMPLOYER IN WRITING IF HE OR SHE HAS A CONSCIEN-
10 TIOUS OBJECTION TO PARTICIPATING IN THE HEALTH CARE SERVICE AT
11 LEAST 24 HOURS BEFORE THE HEALTH CARE SERVICE IS SCHEDULED. IF A
12 HEALTH CARE PROVIDER DOES NOT NOTIFY THE EMPLOYER AT LEAST 24
13 HOURS BEFORE THE HEALTH CARE SERVICE IS SCHEDULED, THE EMPLOYER
14 SHALL MAKE A REASONABLE EFFORT TO EXCLUDE THE HEALTH CARE PRO-
15 VIDER FROM PARTICIPATING OR FIND A REPLACEMENT FOR THE HEALTH
16 CARE PROVIDER IF THE HEALTH CARE PROVIDER STILL CLAIMS TO HAVE,
17 EITHER ORALLY OR IN WRITING, A CONSCIENTIOUS OBJECTION TO
18 PARTICIPATION.

19 (5) A HEALTH CARE PROVIDER'S CONSCIENTIOUS OBJECTION TO PAR-
20 TICIPATING IN A HEALTH CARE SERVICE SHALL NOT BE THE BASIS FOR 1
21 OR MORE OF THE FOLLOWING:

22 (A) CIVIL LIABILITY TO ANOTHER PERSON.

23 (B) CRIMINAL ACTION.

24 (C) REFUSAL OF STAFF PRIVILEGES AT A HEALTH FACILITY OR
25 AGENCY.

26 (D) ADMINISTRATIVE OR LICENSURE ACTION.

1 (E) AN INVOLUNTARY CHANGE IN TERMS OR CONDITIONS OF
2 EMPLOYMENT OR OTHER DISCIPLINARY ACTION BY THE HEALTH CARE
3 PROVIDER'S EMPLOYER.

4 (6) AS USED IN THIS SECTION, "HEALTH CARE PROVIDER", "HEALTH
5 CARE SERVICE", AND "PARTICIPATE OR PARTICIPATING" MEAN THOSE
6 TERMS AS DEFINED IN SECTION 20185.

7 SEC. 20185. (1) PURSUANT TO THIS SECTION, A HEALTH FACILITY
8 MAY ASSERT, ON A PROFESSIONAL, ETHICAL, MORAL, OR RELIGIOUS
9 GROUND, A CONSCIENTIOUS OBJECTION TO A HEALTH CARE SERVICE.

10 (2) A HEALTH FACILITY SHALL PROVIDE NOTICE OF A CONSCIEN-
11 TIOUS OBJECTION DESCRIBED IN SUBSECTION (1) TO A HEALTH CARE
12 SERVICE THROUGH WRITTEN NOTICE, WRITTEN POSTINGS, OR IN WRITING
13 AT THE TIME AN INDIVIDUAL SEEKS TO OBTAIN THAT HEALTH CARE SERV-
14 ICE FROM THE HEALTH FACILITY.

15 (3) A HEALTH FACILITY'S CONSCIENTIOUS OBJECTION TO A HEALTH
16 CARE SERVICE SHALL NOT BE A BASIS FOR 1 OR MORE OF THE
17 FOLLOWING:

18 (A) CIVIL, CRIMINAL, OR ADMINISTRATIVE LIABILITY.

19 (B) ELIGIBILITY DISCRIMINATION AGAINST THE HEALTH FACILITY
20 IN A GRANT, CONTRACT, OR PROGRAM, WHERE PROVIDING THE OBJECTION-
21 ABLE HEALTH CARE SERVICE IS NOT EXPRESSLY REQUIRED AS A CONDITION
22 OF ELIGIBILITY FOR THE GRANT, CONTRACT, OR PROGRAM.

23 (4) A PERSON INCLUDING, BUT NOT LIMITED TO, A GOVERNMENTAL
24 AGENCY SHALL NOT REFUSE EMPLOYMENT OR STAFF PRIVILEGES TO A
25 HEALTH CARE PROVIDER WHO HAS PREVIOUSLY ASSERTED, OR IS PRESENTLY
26 ASSERTING, A CONSCIENTIOUS OBJECTION TO PARTICIPATING IN A HEALTH
27 CARE SERVICE UNDER SECTION 16282, UNLESS PARTICIPATION IN THAT

1 HEALTH CARE SERVICE IS INDICATED AS A PART OF THE NORMAL COURSE
2 OF DUTIES IN THE POSTING OF THE AVAILABILITY OF THE POSITION FOR
3 EMPLOYMENT OR STAFF PRIVILEGES.

4 (5) A MEDICAL SCHOOL OR OTHER INSTITUTION FOR THE EDUCATION
5 OR TRAINING OF A HEALTH CARE PROVIDER SHALL NOT REFUSE ADMISSION
6 TO AN INDIVIDUAL OR PENALIZE THAT INDIVIDUAL BECAUSE THE INDIVID-
7 UAL HAS FILED A CONSCIENTIOUS OBJECTION TO PARTICIPATING IN A
8 HEALTH CARE SERVICE UNDER SECTION 16282.

9 (6) A CIVIL ACTION FOR DAMAGES OR REINSTATEMENT OF EMPLOY-
10 MENT, OR BOTH, MAY BE BROUGHT AGAINST A PERSON INCLUDING, BUT NOT
11 LIMITED TO, A GOVERNMENTAL AGENCY FOR PENALIZING OR DISCRIMINAT-
12 ING AGAINST A HEALTH CARE PROVIDER, INCLUDING, BUT NOT LIMITED
13 TO, PENALIZING OR DISCRIMINATING IN HIRING, PROMOTION, TRANSFER,
14 A TERM OR CONDITION OF EMPLOYMENT, LICENSING, OR GRANTING OF
15 STAFF PRIVILEGES OR APPOINTMENTS, BECAUSE THAT HEALTH CARE PRO-
16 VIDER HAS FILED A CONSCIENTIOUS OBJECTION TO PARTICIPATING IN A
17 HEALTH CARE SERVICE. CIVIL DAMAGES MAY BE AWARDED EQUAL TO 3
18 TIMES THE AMOUNT OF PROVEN DAMAGES AND ATTORNEY FEES. A CIVIL
19 ACTION MAY INCLUDE A PETITION FOR INJUNCTIVE RELIEF AGAINST A
20 PERSON INCLUDING, BUT NOT LIMITED TO, A GOVERNMENTAL AGENCY
21 ALLEGED TO HAVE PENALIZED OR DISCRIMINATED AGAINST A HEALTH CARE
22 PROVIDER AS DESCRIBED IN THIS SUBSECTION.

23 (7) AS USED IN THIS SECTION AND SECTION 16282:

24 (A) "HEALTH FACILITY" MEANS A HEALTH FACILITY OR AGENCY AS
25 DEFINED IN SECTION 20106, A PRIVATE PHYSICIAN OFFICE, OR A PUBLIC
26 OR PRIVATE INSTITUTION, TEACHING INSTITUTION, PHARMACY,

1 CORPORATION, PARTNERSHIP, OR SOLE PROPRIETORSHIP THAT PROVIDES A
2 HEALTH CARE SERVICE TO AN INDIVIDUAL.

3 (B) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED OR REGIS-
4 TERED UNDER ARTICLE 15, A STUDENT OF A HEALTH FACILITY, OR OTHER
5 PERSON EMPLOYED BY A HEALTH CARE INSTITUTION WHO EITHER DIRECTLY
6 OR INDIRECTLY PARTICIPATES IN A HEALTH CARE SERVICE.

7 (C) "HEALTH CARE SERVICE" MEANS AN ACTION INTENDED TO MAIN-
8 TAIN, IMPROVE, OR RESTORE THE HEALTH OR PHYSICAL COMFORT OF AN
9 INDIVIDUAL.

10 (D) "PARTICIPATE OR PARTICIPATING" MEANS, AT A MINIMUM, TO
11 COUNSEL, REFER, PERFORM, ADMINISTER, PRESCRIBE, DISPENSE, TREAT,
12 WITHHOLD, WITHDRAW, DIAGNOSE, TEST, EVALUATE, TRAIN, RESEARCH,
13 PREPARE, OR PROVIDE MATERIAL OR PHYSICAL ASSISTANCE IN A HEALTH
14 CARE SERVICE.

15 Sec. 20199. (1) Except as provided in subsection (2) or
16 section 20142, a person who violates this article or a rule
17 promulgated or an order issued under this article is guilty of a
18 misdemeanor, punishable by fine of not more than \$1,000.00 for
19 each day the violation continues or, in case of a violation of
20 sections 20551 to 20554, a fine of not more than \$1,000.00 for
21 each occurrence.

22 (2) A person who violates sections 20181 to ~~20184~~ 20185 is
23 guilty of a misdemeanor, punishable by imprisonment for not more
24 than 6 months, or a fine of not more than \$2,000.00, or both.