



# HOUSE BILL 819: Medical Ethics Defense (MED) Act.

2023-2024 General Assembly

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<b>Committee:</b>	House Health. If favorable, re-refer to Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 27, 2023
<b>Introduced by:</b>	Reps. White, Arp, Paré	<b>Prepared by:</b>	Jason Moran-Bates
<b>Analysis of:</b>	First Edition		Committee Staff

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**OVERVIEW:** *House Bill 819 would give healthcare providers, institutions, and payers the right to refuse to participate in or pay for any healthcare service that violates their conscience. They could not be discriminated against for having done so. Violations of this right could be prosecuted by a private right of action, and prevailing plaintiffs would be entitled to treble damages and attorneys' fees. Individuals who provided information about a violation of a right-of-conscience objection could not be retaliated against.*

**CURRENT LAW:** Under current law, physician may refuse to honor a patient's declared wish for a natural death if doing so would violate the physician's conscience. Providers do not have to participate in an abortion if doing so would violate their conscience. There are no other statutory provisions that currently allow a healthcare practitioner to refuse to provide healthcare that would violate the practitioner's conscience.

**BILL ANALYSIS:** House Bill 819 would give healthcare providers, institutions, and payers the right to refuse to participate in or pay for any healthcare service that violates their conscience. No provider, institution, or payer would be civilly, criminally, or administratively liable for exercising this right, and it would be unlawful to discriminate against any provider, institution, or payer who exercised this right. Discrimination would be defined to include termination, demotion, or reassignment in employment; refusal of staff privileges or board certification; adverse shift reassignment; reduction of wages, grant opportunities, or financial assistance; denial or revocation of licensure; impediments to business opportunities; or any other penalty, disciplinary, or retaliatory action.

This right would not be allowed to override the federal requirement to provide emergency healthcare, and any objections to participate in or pay for healthcare services must be conscience-based in order for this right to apply.

Institutions that hold themselves out as being religious would have the right to make staffing considerations consistent with their religious beliefs.

Healthcare practitioners could not be scheduled to perform, facilitate, refer for, or participate in an abortion unless they affirmatively consented to do so in writing.

Individuals whose right of conscience had been violated would have a private right of action against the individual or entity that violated the right. In addition to injunctive relief, the aggrieved individual would be entitled to treble damages and attorneys' fees. Individuals who provided information tending to show a violation of a right of conscience would be protected from retaliation.

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No licensing board or DHHS would be allowed to take adverse action against a healthcare practitioner who engaged in conduct protected by the First Amendment unless it was shown by clear and convincing evidence that the conduct had directly caused harm to a patient within the last three years. The board or DHHS would be required to provide copies of any complaints filed to the healthcare practitioner within seven days of receiving the complaint. Failure to do so could be punished by a fine of \$500 per day.

**EFFECTIVE DATE:** This bill would become effective October 1, 2023.