

**SUBSTITUTE FOR**  
**HOUSE BILL NO. 5006**  
(As amended April 21, 2004)

A bill to provide standards for personnel policies to protect the right of conscience of health care providers who conscientiously object to providing or participating in certain health care services under certain circumstances; to provide for protection from certain liability; and to provide for penalties and remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "conscientious objector policy act".

3       Sec. 3. As used in this act:

4       (a) "Contraceptive medication [                    ]" means a medication  
5 [                    ] approved for the prevention of pregnancy that is taken  
6 or used in advance of sexual intercourse.

7       (b) "Health care provider" means a person licensed or  
8 registered under article 15 of the public health code, 1978 PA

## House Bill No. 5006 (H-3) as amended April 21, 2004

1 368, MCL 333.16101 to 333.18838, a student of a health facility,  
2 or another person who is employed by or under contract to a  
3 health facility and directly participates in the provision of a  
4 health care service. Health care provider does not include a  
5 sanitarian or a veterinarian.

6 (c) "Health care service" means the provision or withdrawal  
7 of, or research or experimentation involving, a medical  
8 diagnosis, treatment, procedure, diagnostic test, device,  
9 medication, drug, or other substance intended to affect the  
10 physical or mental condition of an individual. Health care  
11 service does not include the provision of a contraceptive  
12 medication [ ].

13 (d) "Health facility" means any of the following:

14 (i) A clinical laboratory.

15 (ii) A county medical care facility.

16 (iii) A freestanding surgical outpatient facility.

17 (iv) A home for the aged.

18 (v) A hospital.

19 (vi) A nursing home.

20 (vii) A hospice.

21 (viii) A hospice residence.

22 (ix) A facility or agency listed in subparagraphs (i) to (vi)  
23 located in a university, college, or other educational  
24 institution.

25 (x) A private physician's office.

26 (xi) A medical clinic.

27 (xii) A public or private institution that provides health

## House Bill No. 5006 (H-3) as amended April 21, 2004

1 care services to an individual.

2 (xiii) A teaching institution that provides health care  
3 services to an individual.

4 (xiv) A pharmacy that provides health care services to an  
5 individual.

6 (xv) A corporation, partnership, sole proprietorship, limited  
7 liability company, or other legal entity that provides health  
8 care services to an individual.

9 (e) "Medical director" means that term as defined in section  
10 20906 of the public health code, 1978 PA 368, MCL 333.20906.

11 (f) "Participate" or "participating" means, at a minimum, to  
12 counsel, refer, perform, administer, prescribe, dispense, treat,  
13 withhold, withdraw, diagnose, test, evaluate, train, research,  
14 prepare, or provide medical advice or material or physical  
15 assistance in a health care service.

16 (g) "Person" means a person as defined in section 1106 of the  
17 public health code, 1978 PA 368, MCL 333.1106, or a governmental  
18 entity.

19 (h) "Public health emergency" means a condition or situation  
20 that presents an immediate threat to the public health, safety,  
21 or welfare and requires immediate action to preserve the public  
22 health, safety, or welfare.

23 Sec. 5. (1) A health care provider may object as a matter  
24 of conscience to providing or participating in a health care  
25 service on [ ] ethical, moral, or religious grounds.

26 (2) A health care provider shall notify his or her employer  
27 in writing of a conscientious objection described in subsection

## House Bill No. 5006 (H-3) as amended April 21, 2004

1 (1). The written notice shall be given directly to his or her  
2 supervisor and shall include a statement explaining his or her  
3 conscientious objection and the health care service or services  
4 to which he or she specifically objects to providing or  
5 participating in under this act.

6 (3) A health care provider may assert his or her  
7 conscientious objection under any of the following conditions:

8 (a) Upon being offered employment.

9 (b) At the time the health care provider adopts [an]  
10 [ ] ethical, moral, or religious belief system that  
11 conflicts with participation in a health care service.

12 (c) Within 24 hours after he or she is asked or has received  
13 notice that he or she is scheduled to participate in a health  
14 care service to which he or she conscientiously objects.

15 Sec. 7. (1) An employer shall retain a health care  
16 provider's written objection filed under section 5 for the  
17 duration of the health care provider's employment. The written  
18 objection is valid for the duration of the health care provider's  
19 employment or until rescinded by the health care provider in  
20 writing.

21 (2) Except as otherwise provided under subsection (3), after  
22 receiving a written objection pursuant to section 5, an employer  
23 shall not require the objecting health care provider to provide  
24 or participate in the objectionable health care service.

25 (3) If a health care provider asserts an objection under  
26 section 5 less than 24 hours prior to the scheduled health care  
27 service, the employer shall make a reasonable effort to exclude

1 the health care provider from participating in the health care  
2 service or find a replacement for the health care provider. If a  
3 replacement is unavailable and the health care provider cannot be  
4 excluded, the employer may require the health care provider to  
5 provide or participate in that health care service.

6 (4) An employer shall not refuse employment or staff  
7 privileges to a health care provider who has exercised his or her  
8 right to assert an objection to providing or participating in a  
9 health care service under section 5, unless participation in that  
10 health care service is indicated as a part of the normal course  
11 of duties in the posting of the availability of the position for  
12 employment or staff privileges.

13 (5) A medical school or other institution for the education  
14 or training of a health care provider shall not refuse admission  
15 to an individual or penalize that individual because the  
16 individual has filed in writing with the medical school or other  
17 institution a conscientious objection to participating in a  
18 health care service under this act.

19 Sec. 9. Except as provided in section 11, a health care  
20 provider's objection to providing or participating in a health  
21 care service as described in section 5 shall not be the basis for  
22 1 or more of the following:

- 23 (a) Civil liability to another person.
- 24 (b) Criminal action.
- 25 (c) Administrative or licensure action.
- 26 (d) Termination of employment or refusal of staff privileges  
27 at a health facility.

1           Sec. 11. (1) The protections afforded to a health care  
2 provider under this act do not apply under any of the following  
3 circumstances:

4           (a) A health care provider shall not assert an objection to a  
5 health care service if a patient's condition, in the reasonable  
6 medical judgment of an attending physician or medical director,  
7 requires immediate action and no other qualified health care  
8 provider is available to provide that health care service.

9           (b) A health care provider shall not assert an objection to  
10 providing or participating in a health care service in the event  
11 of a public health emergency.

12           (c) A health care provider shall not assert an objection to  
13 providing or participating in a health care service based on the  
14 classification of a patient or group of patients protected under  
15 the Elliot-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to  
16 37.2804, or based on a disease or other medical condition.

17           (2) Subject to a collective bargaining agreement, if a health  
18 care provider asserts an objection to a health care service that  
19 at the time the objection is asserted constitutes a regular or  
20 substantial portion of the health care provider's current and  
21 defined position, the employer may give the health care provider  
22 not less than 60 days' notice of the termination of his or her  
23 employment. As used in this section, "regular or substantial  
24 portion" means that 10% or more of the health care provider's  
25 daily or weekly hours of duty consist of providing or  
26 participating in that health care service.

27           (3) This act does not relieve a health care provider from a

1 duty that exists under another statute or other law pertaining to  
2 current standards of acceptable health care practice and  
3 procedure to inform a patient of the patient's condition,  
4 prognosis, and risks of receiving health care services for the  
5 condition.

6       Sec. 13. (1) A civil action for damages or reinstatement of  
7 employment, or both, may be brought against a person, including,  
8 but not limited to, a governmental agency, health facility, or  
9 other employer, for penalizing or discriminating against a health  
10 care provider, including, but not limited to, penalizing or  
11 discriminating in hiring, promotion, transfer, a term or  
12 condition of employment, licensing, or granting of staff  
13 privileges or appointments, because that health care provider has  
14 asserted an objection to participating in a health care service  
15 under section 5. Civil damages may be awarded equal to the  
16 amount of proven damages and attorney fees. A civil action filed  
17 under this subsection may include a petition for injunctive  
18 relief against a person alleged to have penalized or  
19 discriminated against a health care provider as described in this  
20 subsection.

21       (2) A person who violates this act is responsible for a state  
22 civil infraction and may be ordered to pay a fine of not more  
23 than \$1,000.00 for each day the violation continues or a fine of  
24 not more than \$1,000.00 for each occurrence.