

**ASSEMBLY, No. 2016**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**  
**Assemblyman SEAN T. KEAN**  
**District 11 (Monmouth)**

**SYNOPSIS**

Permits health care professionals to refuse to perform or assist in health care services that violate their religious, moral, or ethical convictions.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning health care professionals and amending  
2 P.L.1974, c.111.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1974, c.111 (C.2A:65A-1) is amended to  
8 read as follows:

9 1. [No person] a. A health care professional shall not be  
10 required to counsel, advise, provide or assist in providing, perform  
11 or assist in [the performance of] performing, refer or admit for:

12 (1) an abortion or sterilization; or

13 (2) any health care service with respect to which the health care  
14 professional states that counseling, advising, providing or assisting  
15 in providing, performing or assisting in performing, referring, or  
16 admitting for that health care service would violate that person's  
17 religious, moral, or ethical convictions.

18 b. As used in this section:

19 "Health care professional" means a person licensed or otherwise  
20 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to  
21 practice a health care profession that is regulated by the Director of  
22 the Division of Consumer Affairs or by one of the following boards:  
23 the State Board of Medical Examiners, the New Jersey Board of  
24 Nursing, the New Jersey State Board of Dentistry, the New Jersey  
25 State Board of Optometrists, the New Jersey State Board of  
26 Pharmacy, the State Board of Chiropractic Examiners, the  
27 Acupuncture Examining Board, the State Board of Physical  
28 Therapy, the State Board of Respiratory Care, the Orthotics and  
29 Prosthetics Board of Examiners, the State Board of Psychological  
30 Examiners, the State Board of Social Work Examiners, the State  
31 Board of Veterinary Medical Examiners, the State Board of  
32 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,  
33 the Audiology and Speech-Language Pathology Advisory  
34 Committee, the State Board of Marriage and Family Therapy  
35 Examiners, the Occupational Therapy Advisory Council, and the  
36 Certified Psychoanalysts Advisory Committee.

37 "Health care service" means any phase of medical or other health  
38 care, treatment, or procedure, including: patient referral or  
39 counseling; therapy; testing, diagnosis, or prognosis; research or  
40 instruction; prescribing, dispensing, or administering a device or  
41 prescription drug; surgery; or any other care or treatment rendered  
42 by health care professionals within or outside of a licensed health  
43 care facility.

44 (cf: P.L.1974, c.111, s.1)

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       2. Section 3 of P.L.1974, c.111 (C.2A:65A-3) is amended to  
2 read as follows:

3       3. a. The refusal by a health care professional to counsel,  
4 advise, provide or assist in providing, perform or assist in [the  
5 performance of, or provide] performing, refer, or admit for abortion  
6 services [or], sterilization procedures, or any health care service as  
7 defined in section 1 of P.L.1974, c.111 (C.2A:65A-1) with respect  
8 to which the health care professional states that counseling,  
9 advising, providing or assisting in providing, performing or  
10 assisting in performing, referring, or admitting for that health care  
11 service would violate that person's religious, moral, or ethical  
12 convictions, shall not constitute grounds for civil or criminal  
13 liability, disciplinary action, or discriminatory treatment.

14       b. A health care professional who is aggrieved as a result of a  
15 violation of the provisions of subsection a. of this section may  
16 commence a civil action against the person or entity who committed  
17 the violation to obtain appropriate relief, including actual damages,  
18 equitable relief, and reasonable attorney's fees and court costs. The  
19 court may award punitive damages when the violation evidences  
20 intentionally malicious conduct by the person or entity who  
21 committed the violation.

22 (cf: P.L.1974, c.111, s.3)

23

24       3. This act shall take effect on the 180th day after the date of  
25 enactment.

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#### STATEMENT

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29       The purpose of this bill is to protect the right of conscience of all  
30 health care professionals by allowing them to exercise that right  
31 without fear of coercion, retaliation, discrimination,  
32 disqualification, or liability.

33       The bill expands the provisions of P.L.1974, c.111  
34 (N.J.S.A.2A:65A-1 et seq.), which currently protects an individual  
35 against being required to perform or assist in the performance of an  
36 abortion or sterilization, to provide that a health care professional is  
37 not required to counsel, advise, provide or assist in providing,  
38 perform or assist in performing, refer, or admit for: an abortion or  
39 sterilization; or any health care service with respect to which the  
40 health care professional states that counseling, advising, providing  
41 or assisting in providing, performing or assisting in performing,  
42 referring, or admitting for that health care service would violate that  
43 person's religious, moral or ethical convictions.

44       The bill defines:

45       -- "Health care professional" to mean a person licensed or  
46 otherwise authorized pursuant to Title 45 or Title 52 of the Revised  
47 Statutes to practice a health care profession that is regulated by the

1 Director of the Division of Consumer Affairs or by one of the  
2 following boards: the State Board of Medical Examiners, the New  
3 Jersey Board of Nursing, the New Jersey State Board of Dentistry,  
4 the New Jersey State Board of Optometrists, the New Jersey State  
5 Board of Pharmacy, the State Board of Chiropractic Examiners, the  
6 Acupuncture Examining Board, the State Board of Physical  
7 Therapy, the State Board of Respiratory Care, the Orthotics and  
8 Prosthetics Board of Examiners, the State Board of Psychological  
9 Examiners, the State Board of Social Work Examiners, the State  
10 Board of Veterinary Medical Examiners, the State Board of  
11 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,  
12 the Audiology and Speech-Language Pathology Advisory  
13 Committee, the State Board of Marriage and Family Therapy  
14 Examiners, the Occupational Therapy Advisory Council, and the  
15 Certified Psychoanalysts Advisory Committee; and

16 -- "Health care service" to mean any phase of medical or other  
17 health care, treatment or procedure, including: patient referral or  
18 counseling; therapy; testing, diagnosis, or prognosis; research or  
19 instruction; prescribing, dispensing, or administering a device or  
20 prescription drug; surgery; or any other care or treatment rendered  
21 by health care professionals within or outside of a licensed health  
22 care facility.

23 The bill further provides that:

- 24 • the refusal by a health care professional to counsel,  
25 advise, provide or assist in providing, perform or assist in  
26 performing, refer, or admit for abortion services,  
27 sterilization procedures, or any health care service with  
28 respect to which the health care professional states that  
29 counseling, advising, providing or assisting in providing,  
30 performing or assisting in performing, referring, or  
31 admitting for that health care service would violate that  
32 person's religious, moral, or ethical convictions, is not to  
33 constitute grounds for civil or criminal liability,  
34 disciplinary action, or discriminatory treatment;
- 35 • a health care professional who is aggrieved as a result of a  
36 violation of the provisions of the bill may commence a  
37 civil action against the person or entity who committed  
38 the violation to obtain appropriate relief, including actual  
39 damages, equitable relief, and reasonable attorney's fees  
40 and courts costs; and
- 41 • the court may award punitive damages when the violation  
42 evidences intentionally malicious conduct by the person  
43 or entity who committed the violation.

44 The bill takes effect on the 180th day after enactment.