

HB 1080 - AS INTRODUCED

2022 SESSION

22-2083

05/04

HOUSE BILL **1080**

AN ACT relative to the rights of conscience for medical professionals.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Spillane, Rock. 2; Rep. Notter, Hills. 21; Rep. Edwards, Rock. 4; Rep. Wuelper, Straf. 3; Rep. Gould, Hills. 7; Sen. Giuda, Dist 2

COMMITTEE: Health, Human Services and Elderly Affairs

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ANALYSIS

This bill provides that health care providers have a right to conscientiously object to participating in providing abortion, sterilization, or artificial contraception services. The bill requires health care institutions to prominently post a notice to this effect and establishes civil remedies, including fines, for its violation.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to the rights of conscience for medical professionals.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Statement of Intent. It is the purpose of this act to protect as a basic civil right the freedom of  
2 all health care providers to decline to counsel, advise, provide, perform, assist, or participate in  
3 providing or performing abortions, sterilizations, or artificial contraception. Protecting the freedom  
4 of health care providers to decline to provide or participate in the provision of services that violate  
5 their religious, moral, or ethical convictions safeguards the dignity of individual health care  
6 providers and ensures that the citizens of New Hampshire have access to quality health care.

7 2 New Chapter; Health Care Freedom of Conscience. Amend RSA by inserting after chapter  
8 126-DD the following new chapter:

9 CHAPTER 126-EE

10 HEALTH CARE FREEDOM OF CONSCIENCE

11 126-EE:1 Definitions. In this chapter:

12 I. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other  
13 substance or device intentionally to terminate the pregnancy of a female known to be pregnant with  
14 an intention other than to increase the probability of a live birth, to preserve the life or health of the  
15 child after live birth, or to remove an ectopic pregnancy or the products from a spontaneous  
16 miscarriage.

17 II. "Artificial contraception or contraception" means the use of a medicine, drug, substance,  
18 device, or surgical procedure to intentionally prevent ovulation, fertilization of a human egg cell, or  
19 implantation of a fertilized human egg in the uterine wall.

20 III. "Conscientiously object" or "conscientious objection" means to object because of a  
21 religious belief or a moral or ethical conviction.

22 IV. "Discriminate against or discrimination" means any adverse action taken against, or any  
23 threat of adverse action communicated to, any health care provider as a result of his or her  
24 conscientious objection to participating in an abortion, sterilization, or the prescription or provision  
25 of artificial contraception. Discrimination may include, but is not limited to: termination of  
26 employment; transfer from current position; demotion from current position; adverse administrative  
27 action; reassignment to a different shift or job title; increased administrative duties; refusal of staff  
28 privileges; refusal of board certification; loss of career specialty; reduction of wages, benefits, or  
29 privileges; refusal to award a grant, contract, or other program; refusal to graduate; refusal to  
30 provide residency training opportunities; denial, deprivation, or disqualification of licensure; the

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1 threat of any of the administrative, disciplinary, or other adverse proceeding; or any other penalty,  
2 disciplinary, or retaliatory action, whether executed or threatened.

3 V. "Health care institution" means any public or private hospital, clinic, medical center,  
4 physician organization, professional association, ambulatory surgical center, private physician's  
5 office, pharmacy, nursing home, medical school, nursing school, medical training facility, or any  
6 other entity or location in which an abortion or sterilization or the prescription or provision of  
7 artificial contraception are performed on or provided to any person. "Health care institutions" may  
8 include, but are not limited to: organizations, corporations, partnerships, associations, agencies,  
9 networks, sole proprietorships, joint ventures, or any other entity that provides abortions,  
10 sterilizations, or artificial contraception.

11 VI. "Health care provider" means any individual who, as part of his or her employment, may  
12 be asked to participate in any way in an abortion or sterilization or the prescription or provision of  
13 artificial contraception including, but not limited to: a physician, physician's assistant, nurse,  
14 nurse's aide, medical assistant, hospital or clinic employee, pharmacist, pharmacy employee, medical  
15 school student, medical school employee, or any professional, paraprofessional, or any other person  
16 who furnishes, or assist in the furnishing of an abortion, sterilization, or artificial contraception.

17 VII. "Participate" or "participating in" means to provide, perform, assist with, facilitate,  
18 refer for, counsel for, advise with regard to, admit for the purposes of providing, or take part in any  
19 way in providing an abortion, sterilization, or artificial contraception.

20 VIII. "Prescription or provision of" means to make available or arrange for any medicine,  
21 drug, substance, device, or medical procedure.

22 IX. "Sterilization" means any medical technique or procedure intended to leave a person  
23 unable to reproduce.

24 126-EE:2 Health Care Provider's Right to Conscientiously Object.

25 I. A health care provider has the right to conscientiously object to participating in an  
26 abortion, sterilization, or the prescription or provision of artificial contraception.

27 II. A health care provider who conscientiously objects to participating in an abortion,  
28 sterilization, or the prescription or provision of artificial contraception shall not thereby be  
29 administratively, civilly, or criminally liable to any person, estate, public or private entity, or public  
30 official.

31 III. It shall be unlawful for any person, health care provider, health care institution, public  
32 or private institution, public official, national licensing board which licenses health care providers, or  
33 national certifying board which certifies competency in medical specialties to discriminate against  
34 any health care provider in any manner based on his or her conscientious objection to participating  
35 in an abortion, sterilization, or the prescription or provision of artificial contraception.

36 126-EE:3 Notice Requirement.

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1 I. A health care institution shall prominently post a notice, not less than 8.5 x 11 inches in  
2 size, entitled "Freedom of Conscience for Health Care Providers," in a location where other such  
3 notices are normally posted, or if such notices are not so normally posted, in a location in which  
4 health care providers are likely to see such a notice. The purpose of this notice is to fully inform  
5 health care providers of their right to decline to provide, perform, assist with, facilitate, refer for,  
6 counsel for, advise with regard to, admit for the purposes of providing, or take part in any way in  
7 providing an abortion, sterilization, or artificial contraception.

8 II. A health care institution shall ensure that every health care provider is informed of his or  
9 her right to decline to provide, perform, assist with, facilitate, refer for, counsel for, advise with  
10 regard to, admit for the purposes of providing, or take part in any way in providing an abortion,  
11 sterilization, or artificial contraception.

12 126-EE:4 Civil Remedies.

13 I. A civil action for damages, injunctive relief, or both, may be brought for the violation of  
14 any provision of RSA 126-EE:2. It shall not be a defense to any claim arising out of the violation of  
15 RSA 126-EE:2 that such violation was necessary to prevent additional burden or expense on any  
16 other health care provider, health care institution, individual, or patient.

17 II. Any health care provider discriminated against or injured by any person, health care  
18 provider, health care institution, public or private institution, public official, medical licensing board  
19 which licenses health care providers, or medical certifying board with competency in medical  
20 specialties, by reason of any conduct prohibited by RSA 126-EE:2 may commence a civil action.

21 III. Upon finding a violation of RSA 126-EE:2, the health care provider shall be entitled to  
22 recover threefold all actual damages sustained by the health care provider, including damages for  
23 pain and suffering as well as the costs of the civil action, and reasonable attorney's fees.

24 IV. In no case shall recovery be less than \$10,000 for each violation, not including costs of  
25 the civil action and reasonable attorney's fees. These damage remedies shall in no way be exclusive  
26 of any other remedies afforded under any other state or federal law.

27 V. The court in a civil action for a violation of RSA 126-EE:2 may award injunctive relief  
28 including, but not limited to, ordering reinstatement of a health care provider to his or her prior job  
29 or position.

30 VI. Any violation of or failure to comply with the requirements of RSA 126-EE:3 by a health  
31 care institution shall be punished by a civil fine of not less than \$1,000 and not more than \$10,000  
32 per occurrence.

33 126-EE:5 Severability. If any provision of this chapter or the application thereof to any person  
34 or circumstances is held invalid, the invalidity does not affect other provisions or applications of the  
35 chapter which can be given effect without the invalid provisions or applications, and to this end the  
36 provisions of this chapter are severable.

37 3 Effective Date. This act shall take effect January 1, 2023.