AN ACT concerning health and healthcare; relating to provision of services; enacting the healthcare conscience protection act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The provisions of this section shall be known and may be cited as the healthcare conscience protection act.

(b) The purpose of the healthcare conscience protection act is to encourage and safeguard the right of healthcare providers and entities to exercise conscience in decisions to provide healthcare services and to protect healthcare providers and entities from discrimination or retaliation as a result of conscientious medical objection.

(c) (1) Notwithstanding any other provision of state law, and to the extent allowed by federal law, a healthcare provider shall have the right to not participate in any healthcare service when participating in the healthcare service would violate such provider or entity's conscience.

(2) A healthcare provider or entity's decision not to participate in a healthcare service that would violate the provider or entity's conscience shall not form the basis for any civil or criminal liability or administrative action under any state or local law.

(3) It shall be unlawful for any person, firm, corporation or governmental entity to discriminate against any healthcare provider or entity as a result of such provider or entity's decision not to participate in a healthcare service that would violate such provider or entity's conscience.

(4) Nothing in this act shall be construed to relieve a healthcare provider or entity from providing emergency medical treatment to all patients as required by law.

(d) A healthcare provider or entity that exercises the right of conscience shall:

(1) Promptly inform a patient or an individual authorized to make healthcare decisions on behalf of a patient if the healthcare provider or entity decides not to participate in the healthcare service for reasons of conscience; and

(2) make reasonable efforts to assist in a prompt transfer of a patient if requested by the patient or on behalf of the patient.

(e) No person shall intimidate, threaten, coerce or discriminate against any healthcare provider or entity for the purpose of interfering with
any right protected by this act, or because a healthcare provider or entity
makes a complaint, testifies, assists, participates in an investigation,
proceeding or hearing under this act, exercises the rights protected under
this act or aids or encourages others to exercise the rights protected under
this act.
(f) Nothing in this act shall relieve a healthcare provider or entity
from performing any act that, if not performed, would subject the
healthcare provider or entity to disciplinary action by the licensing agency
responsible for the supervision and licensure of such healthcare provider
or entity.
(g) (1) A healthcare provider or entity who has been aggrieved by a
violation of this act may bring a cause of action in an appropriate state
court for such violation and seek appropriate relief, including, but not
limited to:
(A) Actual damages, including lost wages and other benefits suffered
by the plaintiff;
(B) punitive damages, if the court finds the violation was willful,
wanton or malicious;
(C) statutory damages in the amount of $10,000;
(D) injunctive relief to restrain violations of the provisions of this act
against further violations of this act; and
(E) any other necessary or appropriate relief.
(2) The court shall award a prevailing plaintiff the cost of the suit,
including reasonable attorney fees.
(3) Notwithstanding any other provision of law, any action
commenced under this act shall be filed within two years after the date the
plaintiff experienced the act of discrimination.
(4) If judgment is rendered in favor of the defendant in an action
brought under this act, and the court finds the plaintiff's action was
frivolous and brought in bad faith, the court shall award reasonable
attorney fees to the defendant in addition to any other relief that is
awarded.
(h) As used in this act:
(1) "Conscience" means the deeply held religious, moral, ethical or
philosophical beliefs or principles of a healthcare provider or healthcare
tentity. "Conscience" of a healthcare entity may be determined by an
tentity's governing documents, including, but not limited to: Published
religious, moral or ethical guidelines; mission statements; constitutions;
articles of incorporation; bylaws; policies; or regulations.
(2) "Discriminate" or "discrimination" means any adverse action
taken against, or any threat of adverse or retaliatory action communicated
to any healthcare provider or healthcare entity as a result of such provider
or entity's decision not to participate in a healthcare service on the basis of
conscience.

(3) "Healthcare entity" means any facility licensed under chapter 39 or 65 of the Kansas Statutes Annotated, and amendments thereto, that provides healthcare services, regardless of how such entity is incorporated or organized.

(4) "Healthcare provider" means any person licensed or otherwise authorized by law to provide healthcare services in this state.

(5) "Healthcare service" means any activity within a provider's authorized scope of practice for the diagnosis, cure or treatment of any injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings. "Healthcare service" does not mean emergency medical care where failure to provide immediate medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part or would place the person's health in serious jeopardy.

(6) "Participate" in a healthcare service means to provide, perform, assist with, facilitate, refer for, counsel for, advise with regard to, admit for the purposes of providing or taking part in any healthcare service.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.