

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: **06/25/2001**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Hughes**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Discrimination - employment
Health - miscellaneous
Occupational Reg. - misc**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

ARC:.....Hughes - AM106,

Topic:

Conscience clause for pharmacists and other health care providers; employment discrimination based on creed

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 06/25/2001	hhagen 06/26/2001		_____			
/1	kunkemd 06/26/2001	hhagen 06/27/2001	kfollet 06/26/2001	_____	lrb_docadmin 06/26/2001		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/2			jfrantze	_____	lrb_docadmin		
			06/27/2001	_____	06/27/2001		

FE Sent For:

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/?	kunkemd 06/25/2001	hhagen 06/26/2001		_____			
/1		12 hnt 6/27/01	kfollet 06/26/2001	_____	lrb_docadmin 06/26/2001		

Handwritten signatures and dates:
No 6/27
6/27

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1/?	kunkemd	11 hmk 6/26/01	6/26	6/26	6/26		

FE Sent For:

<END>

Mark -

I talked to Carolyn
Hughes - she wants to
combine Owens' request
with the second part of
Walker's request (attached),
which subsumes it,
and to have the
first part of Walker's
request be a sole
amendment. Comments?

D.

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

Statement of Intent Pharmacists' Conscience Clause

Legislator Owens Amendment 106
Legislator 2 Pass or Fail Pass
Legislator 3 Spending Cut
Legislator 4 Withdrawn
Staff contact Jacque Package
Agency Health and Family Services

PAK

Summary This amendment provides that a pharmacist licensed by the pharmacy examining board (board) in the department of regulation and licensing (DORL) may not be required to dispense a prescribed drug or device if the pharmacist has reason to believe that the drug or device would be used for causing an abortion. An "abortion" is defined as the use of an instrument, medicine, drug, or other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant. In addition, there must be no intent to increase the probability of a live birth, to preserve the life or health of the infant after live birth, or to remove a dead fetus. Also under the bill, a licensed pharmacist may not be required to dispense a drug or device if the pharmacist has reason to believe that the drug or device would be used for causing the death of a person by assisted suicide or euthanasia.

→ not refusing in writing?
→ Same as definition under S. 253.10 (2)(a)

only 2 grounds, not 7, 2nd ground doesn't refer to mercy killing

This amendment also provides that a pharmacist's refusal to dispense a prescribed drug for device because he or she has reason to believe that the drug or device would be used for a purpose described above may not be the basis for a claim for damages against the pharmacist or the pharmacist's pharmacy. Also, such a refusal may not be the basis for disciplinary action by the board or DORL against the pharmacist.

→ diff. structure (instead of immune from liability for damage caused...)

This amendment expands the definition of employment discrimination based on creed. Under current law, "creed" is defined as a system of religious beliefs, including moral or ethical beliefs about right and wrong, that a person sincerely holds with the strength of traditional religious views. Employment discrimination based on creed is defined to include refusing to accommodate reasonably an employee's or prospective employee's religious observances or practices unless the employer can demonstrate that the accommodation would pose an undue hardship.

The amendment also expands the definition of employment discrimination based on creed to include discriminating against a pharmacist on the basis of his or her refusal, based on creed, to dispense a prescribed drug or device that the pharmacist has reason to believe would be used for causing an abortion or causing the death of a person by assisted suicide or euthanasia. Under this amendment, discrimination includes refusing to hire a pharmacist, terminating a pharmacist's employment, and discriminating against a pharmacist with respect to promotions, compensation, or terms, conditions, or privileges of employment. There is no exception for an employer to show that the pharmacist's refusal poses an undue hardship.

- only pharmacists
- includes refusal, not statement of intent to refuse
- Same: 2 grounds instead of 7

Request # 165

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

Fiscal Impact There is no fiscal impact.

Drafting Inst

ARC Analyst Hughes

Request # 165

Friday, June 22, 2001

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Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

Statement of Intent (1) Prohibits the use of public employees and public property for activities relating to abortion and providing a penalty

(2) Extends the protections under the current conscience clause laws

Legislator	Walker	Amendment	104
Legislator 2		Pass or Fail	Pass
Legislator 3		Spending Cut	
Legislator 4		Withdrawn	
Staff contact	Melissa	Package	
Agency	Health and Family Services		

Summary (1) Prohibits state or local employees from engaging in abortion-related activities while acting within the scope of their employment. An abortion-related activity is defined as (a) providing or assisting in providing an abortion unless the abortion is directly and medically necessary to save the life of the pregnant woman; (b) aiding or encouraging a pregnant woman to have an abortion, unless the abortion is directly and medically necessary to save the life of the pregnant woman; (c) making abortion referrals either directly or through an intermediary, unless the abortion is directly and medically necessary to save the life of the pregnant woman; or (d) requiring, providing, referring for, or making arrangements for the provision of training in the performance of a medical treatment or surgical procedure for the purpose of performing or inducing an abortion. Any public employee who violates this prohibition would be subject to disciplinary procedures and a civil forfeiture of not less than \$500 nor more than \$1,000.

The legislation would also prohibit state and local public facilities from being used to do any abortion-related activities, as defined above. Any person who violates this prohibition would be subject to a civil forfeiture of not less than \$2,000 nor more than \$5,000.

(2) Extends the protections under the current conscience clause laws, which deal with abortion and sterilization, by: (a) creating a conscience clause law for pharmacists; (b) extending the conscience clause protections to other related issues such as the use of abortifacients, destruction of or experimentation on human embryos, use of fetal tissues, withholding or withdrawal of nutrition or hydration, assisted suicide, and euthanasia; (c) granting protection from employment discrimination, professional liability and civil liability; and (d) granting persons whose conscience rights are being violated the right to sue for injunctive relief and damages.

Fiscal Impact (1) The fiscal effect is indeterminate, but it appears that any potential loss of revenue from ceasing abortion-related activities would be minimal. Additionally, revenue may be generated from the violation of stated prohibitions. Forfeitures range from \$500 to \$5,000.

(2) According to the Department of Workforce Development, additional costs for reprinting materials related to employment discrimination could be absorbed within the agency's budget. Also, the Personnel Commission states that any additional costs related to an increase in employment discrimination complaints could be absorbed within the agency's existing budget.

Drafting Inst

Request #

7

DAX

Friday, June 22, 2001

Page 3 of 28

2001

Date (time)
needed

D-NOTE

LRB b 1759, 1

**ARC CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]**

MDK : hmb : _____

REMOVE
DNOTE

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

2001 ASSEMBLY BILL 168

March 1, 2001 -- Introduced by Representatives WALKER, STASKUNAS, ALBERS, COLON, DUFF, J. FITZGERALD, FREESE, GUNDERSON, GUNDRUM, HOVEN, HUEBSCH, JESKEWITZ, JOHNSRUD, KEDZIE, KRAWCZYK, LADWIG, F. LASEE, M. LEHMAN, LEIBHAM, LIPPERT, LOEFFELHOLZ, MCCORMICK, D. MEYER, MONTGOMERY, NASS, OTT, OWENS, PETROWSKI, PETTIS, RHOADES, RYBA, STARZYK, STONE, SUDER, SYKORA, UNDERHEIM, URBAN, VRAKAS, WIECKERT and ZIEGELBAUER, cosponsored by Senators BRESKE, ROESSLER, BAUMGART, COWLES, FARROW, S. FITZGERALD, HARSDFORF, LAZICH, SCHULTZ and WELCH. Referred to Committee on Labor and Workforce Development.

1 **AN ACT to renumber and amend** 111.337 (1), 253.09 (1), 441.06 (6) and 448.03
 2 (5) (a); **to amend** 253.09 (title), 253.09 (2), 253.09 (3), 253.09 (4) (a), 253.09 (4)
 3 (b) 1., 253.09 (4) (b) 2., 441.06 (title) and 448.03 (5) (title); and **to create** 111.337
 4 (1g), 111.337 (1r) (b), 253.09 (1g), 253.09 (1r) (a) 1. to 7., 253.09 (5), 441.06 (6)
 5 (a), 441.06 (6) (b) 1. to 7., 441.06 (7), 441.06 (8), 448.03 (5) (ag), 448.03 (5) (am),
 6 448.03 (5) (ao), 448.03 (5) (ar) 1. to 7. and 450.135 of the statutes; **relating to:**
 7 employment discrimination based on creed and exemption from liability and
 8 discipline for physicians, nurses, pharmacists, other health care providers, and
 9 hospital employees who refuse to participate in sterilization, abortion, assisted
 10 suicide, and other procedures on moral or religious grounds.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, an employer may not engage in employment discrimination based on creed. "Creed" is defined as a system of religious beliefs, including moral or ethical beliefs about right and wrong, that a person sincerely holds with the strength of traditional religious views. Employment discrimination based on creed is defined to include refusing to reasonably

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accommodate an employee's or prospective employee's religious observances or practices unless the employer can demonstrate that the accommodation would pose an undue hardship.

This bill expands the definition of employment discrimination based on creed to include discriminating against a health care provider on the basis of his or her refusal, based on creed, to participate in any of the following activities: 1) sterilization procedures; 2) certain procedures that prevent the implantation of a fertilized human ovum; 3) abortions; 4) experiments or medical procedures that involve the destruction of a human embryo or that involve a human embryo or unborn child but do not relate to the beneficial treatment of the human embryo or unborn child; 5) procedures using fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage; 6) withholding or withdrawing nutrition or hydration under certain circumstances; or 7) acts causing or assisting in the death of an individual, including assisted suicide, euthanasia, or mercy killing. There is no exception for an employer to show that the refusal poses an undue hardship.

Under current law, hospitals, certain health care professionals and hospital employees may not, under certain circumstances, be required to participate in procedures involving sterilization or the removal of a human embryo or fetus. Specifically, a hospital may not be required to admit a patient or allow the use of its facilities for such a procedure. In addition, physicians and other hospital employees who object, in writing, to participating in such a procedure on moral or religious grounds may not be disciplined for refusing to participate in the procedure. Also, a hospital, school, or employer may not take any disciplinary action regarding employment, staff, or student status against a person who refuses to participate in such a procedure if the refusal is based on moral or religious precepts. Finally, under current law, a hospital and the following persons are exempt from liability for damages that result from a refusal to perform such a procedure if the refusal is based on religious or moral precepts: persons employed by or associated with the staff of a hospital, physicians, and other health care professionals licensed or certified by the medical examining board in the department of regulation and licensing (DORL) and registered nurses licensed by the board of nursing in DORL.

This bill expands all of the provisions described above regarding hospitals, health care professionals, and hospital employees to include a refusal to participate, based on moral or religious grounds, in any of the seven activities described above with respect to employment discrimination based on creed. In addition, the bill allows a person who is adversely affected by conduct that violates these provisions to bring a civil action for injunctive relief, damages, and attorneys fees. Also, the bill provides that pharmacists licensed by the pharmacy examining board in DORL are exempt from liability for damages that result from a refusal to participate in any of the seven activities if the refusal is based on religious or moral precepts. In addition, the bill changes the exemptions from liability under current law for physicians and other health care professionals licensed or certified by the medical examining board and registered nurses licensed by the board of nursing so that they are consistent with the exemption under the bill for pharmacists.

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Also, the bill specifies that the medical examining board, board of nursing, pharmacy examining board, or DORL may not take any disciplinary action against any of the following who, in writing, refuse, or state an intention to refuse, to participate in any of the seven activities if the refusal is based on moral or religious grounds: a physician or other health care professional licensed or certified by the medical examining board, registered nurse licensed by the board of nursing, or pharmacist licensed by the pharmacy examining board. In addition, the bill allows a physician, registered nurse, or pharmacist who is adversely affected by conduct that violates this prohibition to bring a civil action for injunctive relief, damages, and attorneys fees. Finally, under the bill, the medical examining board may not take disciplinary action against a physician who makes such a refusal even if the physician refuses to transfer a patient who has executed a declaration authorizing the withholding or withdrawal of life-sustaining procedures or feeding tubes, or who has executed a power of attorney for health care instrument consenting to the withholding or withdrawal of feeding tubes, to another physician who will comply with the declaration or instrument. However, under the bill, the medical examining board may take disciplinary action against a physician who makes such a refusal if the physician refuses to transfer an incapacitated, terminally ill patient who has executed such a declaration.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Page line
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Item # 912, 20: a Header: that insert

1 **SECTION P.** 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.) and
2 *2406d* amended to read:

3 111.337 (1r) (intro.) Employment discrimination because of creed includes, but
4 is not limited to, refusing any of the following:

5 (a) Refusing to reasonably accommodate an employee's or prospective
6 employee's religious observance or practice unless the employer can demonstrate
7 that the accommodation would pose an undue hardship on the employer's program,
8 enterprise, or business.

9 *2406g* **SECTION 2.** 111.337 (1g) of the statutes is created to read:

10 111.337 (1g) In this section:

11 (a) "Health care provider" means any of the following:

ASSEMBLY BILL 168

SECTION 2

1 1. An individual licensed, registered, permitted, or certified by the department
2 of health and family services or the department of regulation and licensing to provide
3 health care services in this state.

4 2. An individual who provides health care services as directed, supervised, or
5 inspected by an individual specified in subd. 1.

6 (b) "Human embryo" includes any organism that is derived by fertilization,
parthenogenesis, cloning, or any other means from one or more human gametes or
human diploid cells.

9 (c) "Participate in" means to perform, assist in, recommend, counsel in favor
10 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
11 promote, encourage, or aid.

12 ^{2606j} SECTION 3. 111.337 (1r) (b) of the statutes is created to read:

13 111.337 (1r) (b) Discriminating against any health care provider by engaging
14 in any of the actions prohibited under s. 111.322 on the basis of the health care
15 provider's refusal, or statement of an intention to refuse, whether or not in writing,
16 based on his or her creed, to participate in any of the following:

17 1. A sterilization procedure.

18 2. A procedure involving a drug or device that may prevent the implantation
19 of a fertilized human ovum.

20 3. An abortion, as defined in s. 253.10 (2) (a).

21 4. An experiment or medical procedure involving any of the following:

22 a. The destruction of a human embryo.

23 b. A human embryo or unborn child, at any stage of development, in which the
24 experiment or procedure is not related to the beneficial treatment of the human
25 embryo or unborn child.

DISC 48

DISC 48

ASSEMBLY BILL 168

1 5. A procedure, including a transplant procedure, that uses fetal tissue or
2 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
3 miscarriage.

4 6. The withholding or withdrawal of nutrition or hydration, unless the
5 administration of nutrition or hydration is medically contraindicated.

6 7. An act that ^{intentionally} causes or assists in causing the death of an individual, such as
7 by assisted suicide, euthanasia, or mercy killing.

8 Item # 1035, p. 9: after that line insert:
"SECTION 4. 253.09 (title) of the statutes is amended to read:

9 3142p 253.09 (title) ~~Abortion refused~~ Refusal to participate in certain
10 practices; no liability; no discrimination.

11 3142pc SECTION 4. 253.09 (1) of the statutes is renumbered 253.09 (1r) (a) (intro.) and
12 amended to read:

13 253.09 (1r) (a) (intro.) No hospital shall be is required to admit any patient or
14 to allow the use of the hospital facilities for the purpose of performing a sterilization
15 procedure or removing a human embryo or fetus. any of the following:

16 (b) A physician or any other person who is a member of or associated with the
17 staff of a hospital, or any employee of a hospital in which such a procedure the
18 performance of an activity specified in par. (a) 1. to 7. has been authorized, who shall
19 state in writing his or her objection to the performance of or providing assistance to
20 such a procedure, in writing, refuses, or states an intention to refuse, to participate
21 in the activity on moral or religious grounds shall not be required to participate in
22 such medical procedure, and the activity.

23 (c) A physician or any other person who is a member of or associated with the
24 staff of a hospital, or any employee of a hospital, is immune from liability for any
25 damage caused by, and may not be subjected to any disciplinary or recriminatory

DWSEN
5-4

6

3142p

3142pc

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1 ~~action based on, the refusal of any such the person to participate therein shall not~~
2 ~~form the basis of any claim for damages on account of such refusal or for any~~
3 ~~disciplinary or recriminatory action against such person in an activity specified in~~
4 ~~par. (a) 1. to 7. on moral or religious grounds.~~

5 **SECTION 6.** 253.09^x (1g) of the statutes is created to read:

3142pe

6 253.09 (1g) In this section:

7 (a) "Human embryo" includes any organism that is derived by fertilization,
8 parthenogenesis, cloning, or any other means from one or more human gametes or
9 human diploid cells.

10 (b) "Participate in" means to perform, assist in, recommend, counsel in favor
11 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
12 promote, encourage, or aid.

13 **SECTION 7.** 253.09 (1r) (a) 1. to 7. of the statutes are created to read:

3142pf

14 253.09 (1r) (a) 1. A sterilization procedure.

15 2. A procedure involving a drug or device that may prevent the implantation
16 of a fertilized human ovum.

17 3. An abortion, as defined in s. 253.10 (2) (a).

18 4. An experiment or medical procedure involving any of the following:

19 a. The destruction of a human embryo.

20 b. A human embryo or unborn child, at any stage of development, in which the
21 experiment or procedure is not related to the beneficial treatment of the human
22 embryo or unborn child.

23 5. A procedure, including a transplant procedure, that uses fetal tissue or
24 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
25 miscarriage.

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1 6. The withholding or withdrawal of nutrition or hydration, unless the
2 administration of nutrition or hydration is medically contraindicated.

3 7. An act that ^{intentionally} causes or assists in causing the death of an individual, such as
4 by assisted suicide, euthanasia, or mercy killing.

5 3142ph SECTION 8. 253.09 (2) of the statutes is amended to read:

6 253.09 (2) No A hospital or employee of any a hospital shall be liable for any
7 civil damages resulting from is immune from liability for any damage caused by a
8 refusal to perform sterilization procedures or remove a human embryo or fetus from
9 a person, if such participate in an activity specified in sub. (1r) (a) 1. to 7., if the
10 refusal is based on religious or moral precepts.

11 3142pj SECTION 9. 253.09 (3) of the statutes is amended to read:

12 253.09 (3) No hospital, school, or employer may discriminate against any
13 person with regard to admission, hiring or firing, tenure, term, condition, or privilege
14 of employment, student status, or staff status on the ground that the person refuses
15 to recommend, aid or perform procedures for sterilization or the removal of a human
16 embryo or fetus, or states an intention to refuse, whether or not in writing, to
17 participate in an activity specified in sub. (1r) (a) 1. to 7., if the refusal is based on
18 religious or moral precepts.

19 3142pl SECTION 10. 253.09 (4) (a) of the statutes is amended to read:

20 253.09 (4) (a) Such individual to perform or assist in the performance of any
21 sterilization procedure or removal of a human embryo or fetus participate in an
22 activity specified in sub. (1r) (a) 1. to 7., if the individual's performance or assistance
23 participation in the performance of such a procedure would be activity is contrary to
24 the individual's religious beliefs or moral convictions; or

25 3142pn SECTION 11. 253.09 (4) (b) 1. of the statutes is amended to read:

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1 253.09 (4) (b) 1. Make its facilities available for the performance of any
2 sterilization procedure or removal of a human embryo or fetus an individual to
3 participate in an activity specified in sub. (1r) (a) 1. to 7., if the performance of such
4 a procedure in such facilities is prohibited by the entity prohibits the activity from
5 taking place in the facilities on the basis of religious beliefs or moral convictions; or

6 SECTION 12. 253.09 (4) (b) 2. of the statutes is amended to read:

3142pp

7 253.09 (4) (b) 2. Provide any personnel for the performance or assistance in the
8 performance of any sterilization procedure or assistance to participate in an activity
9 specified in sub. (1r) (a) 1. to 7., if the performance or assistance in the performance
10 of such procedure or the removal of a human embryo or fetus by such personnel would
11 be activity is contrary to the religious beliefs or moral convictions of such the
12 personnel.

13 SECTION 13. 253.09 (5) of the statutes is created to read:

3142pp

14 253.09 (5) A person who is adversely affected by, or who reasonably may be
15 expected to be adversely affected by, conduct that is in violation of this section may
16 bring a civil action for injunctive relief, including reinstatement, damages, including
17 damages for emotional or psychological distress, or both injunctive relief and
18 damages. In an action under this subsection, the court shall award reasonable
19 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
20 an award of damages, or both.

Item #. 1156, page line: after that line insert: X X

21 SECTION 14. 441.06 (title) of the statutes is amended to read:

22 441.06 (title) **Licensure; civil liability and disciplinary exemption.**

3605e

23 SECTION 15. 441.06 (6) of the statutes is renumbered 441.06 (6) (b) (intro.) and
24 amended to read:

3605e

ASSEMBLY BILL 168

1 441.06 (6) (b) (intro.) No A person licensed as a registered nurse under this
2 section is ~~liable for any civil damages resulting from~~ immune from liability for any
3 damage caused by his or her refusal to perform sterilization procedures or to remove
4 or aid in the removal of a human embryo or fetus from a person, assist in, recommend,
5 counsel in favor of, make referrals for, prescribe, dispense or administer drugs for,
6 or otherwise promote, encourage, or aid any of the following, if the refusal is based
7 on religious or moral precepts:

8 3605g SECTION 16. 441.06 (6) (a) of the statutes is created to read: ^X

9 441.06 (6) (a) In this subsection, [✓]“human embryo” includes any organism that
10 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
11 more human gametes or human diploid cells.

12 3605i SECTION 17. 441.06 (6) (b) 1. to 7. of the statutes are created to read: ^X

13 441.06 (6) (b) 1. A sterilization procedure.

14 2. A procedure involving a drug or device that may prevent the implantation
15 of a fertilized human ovum.

16 3. An abortion, as defined in s. 253.10 (2) (a).

17 4. An experiment or medical procedure involving any of the following:

18 a. The destruction of a human embryo.

19 b. A human embryo or unborn child, at any stage of development, in which the
20 experiment or procedure is not related to the beneficial treatment of the human
21 embryo or unborn child.

22 5. A procedure, including a transplant procedure, that uses fetal tissue or
23 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
24 miscarriage.

ASSEMBLY BILL 168

36081
10-1

6. The withholding or withdrawal of nutrition or hydration, unless the administration of nutrition or hydration is medically contraindicated.

7. An act that ^{intentionally} causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

3605f SECTION 18. 441.06 (7) of the statutes is created to read:

441.06 (7) A person licensed as a registered nurse under this section who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to engage in a practice of professional nursing that is related to an activity specified in sub. (6) (b) 1. to 7. shall not be required to engage in the practice with respect to the activity and may not be disciplined by the board or the department for refusing or stating an intention to refuse to engage in the practice with respect to the activity.

3605m SECTION 19. 441.06 (8) of the statutes is created to read:

441.06 (8) A person who is adversely affected by, or who reasonably may be expected to be adversely affected by, conduct that is in violation of sub. (7) may bring a civil action for injunctive relief, including reinstatement, damages, including damages for emotional or psychological distress, or both injunctive relief and damages. In an action under this subsection, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief, an award of damages, or both.

3608c SECTION 20. 448.03 (5) (title) of the statutes is amended to read:

448.03 (5) (title) CIVIL LIABILITY AND DISCIPLINARY EXEMPTION; CERTAIN MEDICAL PROCEDURES AND REPORTS.

3608e SECTION 21. 448.03 (5) (a) of the statutes is renumbered 448.03 (5) (ar) (intro.) and amended to read:

ASSEMBLY BILL 168

1 448.03 (5) (ar) (intro.) No A person licensed or certified under this subchapter
2 shall be liable for any civil damages resulting from such is immune from liability for
3 any damage caused by the person's refusal to perform sterilization procedures or to
4 remove or aid in the removal of a human embryo or fetus from a person if such, assist
5 in, recommend, counsel in favor of, make referrals for, prescribe, dispense or
6 administer drugs for, or otherwise promote, encourage, or aid any of the following if
7 the refusal is based on religious or moral precepts:

8 36085 SECTION 22. 448.03 (5) (ag) of the statutes is created to read:

9 448.03 (5) (ag) In this subsection, "human embryo" includes any organism that
10 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
11 more human gametes or human diploid cells.

12 36081 SECTION 23. 448.03 (5) (am) of the statutes is created to read:

13 448.03 (5) (am) A person licensed or certified under this subchapter who, in
14 writing, refuses, or states an intention to refuse, on moral or religious grounds to
15 engage in a practice within the scope of his or her license or certification that is
16 related to an activity specified in par. (ar) 1. to 7. shall not be required to engage in
17 the practice with respect to the activity and, notwithstanding s. 154.07 (1) (a) 3. or
18 155.50 (1) (b), may not be disciplined by the board or the department for refusing or
19 stating an intention to refuse to engage in the practice with respect to the activity,
20 including refusing or stating an intention to refuse to transfer a patient to another
21 physician who will comply with a declaration, as defined in s. 154.02 (1), instrument
22 for power of attorney for health care, as defined in s. 155.01 (10), or health care
23 decision, as defined in s. 155.01 (5), of a health care agent, as defined in s. 155.01 (4).
24 This paragraph does not apply to the refusal to make a good faith attempt to transfer
25 a declarant with incapacity, as defined in s. 155.01 (8) and with a terminal condition,

ASSEMBLY BILL 168

1 as defined in s. 154.01 (8), to another physician who will comply with the declaration
2 of the declarant.

3 **SECTION 24.** 448.03 (5) (ao) of the statutes is created to read:

4 448.03 (5) (ao) A person who is adversely affected by, or who reasonably may
5 be expected to be adversely affected by, conduct that is in violation of par. (am) may
6 bring a civil action for injunctive relief, including reinstatement, damages, including
7 damages for emotional or psychological distress, or both injunctive relief and
8 damages. In an action under this paragraph, the court shall award reasonable
9 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
10 an award of damages, or both.

11 **SECTION 25.** 448.03 (5) (ar) 1. to 7. of the statutes are created to read:

- 12 448.03 (5) (ar) 1. A sterilization procedure.
- 13 2. A procedure involving a drug or device that may prevent the implantation
- 14 of a fertilized human ovum.
- 15 3. An abortion, as defined in s. 253.10 (2) (a).
- 16 4. An experiment or medical procedure involving any of the following:
- 17 a. The destruction of a human embryo.
- 18 b. A human embryo or unborn child, at any stage of development, in which the
- 19 experiment or procedure is not related to the beneficial treatment of the human
- 20 embryo or unborn child.
- 21 5. A procedure, including a transplant procedure, that uses fetal tissue or
- 22 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
- miscarriage.

23 6. The withholding or withdrawal of nutrition or hydration, unless the
24 administration of nutrition or hydration is medically contraindicated.
25

3608K

3608L

INS 9/23
12-24
24

ASSEMBLY BILL 168

intentionally

1

7. An act that causes or assists in causing the death of an individual, such as
by assisted suicide, euthanasia, or mercy killing.

2

3608m

~~SECTION 26.~~ 450.135 of the statutes is created to read:

3

4

450.135 Pharmacist's refusal to be involved in certain activities. (1)

5

In this section, "human embryo" includes any organism that is derived by
fertilization, parthenogenesis, cloning, or any other means from one or more human
gametes or human diploid cells.

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(2) A person licensed as a pharmacist under this chapter is immune from
liability for any damage caused by his or her refusal to be involved in the performance
of, assistance in, recommendation of, counseling in favor of, making referrals for,
prescribing, dispensing or administering drugs for, or otherwise promoting,
encouraging, or aiding any of the following, if the refusal is based on religious or
moral precepts:

10

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12

13

14

(a) A sterilization procedure.

15

(b) A procedure involving a drug or device that may prevent the implantation
of a fertilized human ovum.

16

17

(c) An abortion, as defined in s. 253.10 (2) (a).

18

(d) An experiment or medical procedure involving any of the following:

19

1. The destruction of a human embryo.

20

2. A human embryo or unborn child, at any stage of development, in which the
experiment or procedure is not related to the beneficial treatment of the human
embryo or unborn child.

21

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23

(e) A procedure, including a transplant procedure, that uses fetal tissue or
organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
miscarriage.

24

25

**ASSEMBLY AMENDMENT 2,
TO 2001 ASSEMBLY BILL 168**

April 18, 2001 - Offered by COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT.

INSECTS

**INSERT
5-4**

At the locations indicated, amend the bill as follows:

1
2 **1.** Page 5, line 4: before "unless" insert "if the withholding or withdrawal of
3 nutrition or hydration would result in the patient's death from malnutrition or
4 dehydration, or complications of malnutrition or dehydration, rather than from the
5 underlying terminal illness or injury,"

**INSERT
7-1**

6 **2.** Page 5, line 6: before "causes" insert "intentionally".

7 **3.** Page 7, line 1: before "unless" insert "if the withholding or withdrawal of
8 nutrition or hydration would result in the patient's death from malnutrition or
9 dehydration, or complications of malnutrition or dehydration, rather than from the
10 underlying terminal illness or injury,"

**INSERT
10-1**

11 **4.** Page 7, line 3: before "causes" insert "intentionally".

12 **5.** Page 10, line 1: before "unless" insert "if the withholding or withdrawal of
13 nutrition or hydration would result in the patient's death from malnutrition or

1 dehydration, or complications of malnutrition or dehydration, rather than from the
2 underlying terminal illness or injury, ⁹ ^{Leid} ¹¹⁵

3 ~~6. Page 10, line 3: before "causes" insert "intentionally"?~~

4 ~~7. Page 12, line 24: before "unless" insert "if the withholding or withdrawal of~~
5 nutrition or hydration would result in the patient's death from malnutrition or
6 dehydration, or complications of malnutrition or dehydration, rather than from the
7 underlying terminal illness or injury,

8 ~~8. Page 13, line 1: before "causes" insert "intentionally"?~~

9 ~~9. Page 14, line 1: before "unless" insert "if the withholding or withdrawal of~~
10 nutrition or hydration would result in the patient's death from malnutrition or
11 dehydration, or complications of malnutrition or dehydration, rather than from the
12 underlying terminal illness or injury,

13 ~~10. Page 14, line 3: before "causes" insert "intentionally".~~

INSERT
12-24

INSERT
14-1

**ASSEMBLY AMENDMENT 1,
TO 2001 ASSEMBLY BILL 168**

April 18, 2001 - Offered by Representative STONE.

INSERTS

At the locations indicated, amend the bill as follows:

1. Page 4, line 8: after that line insert:

(bm) "Medical equipment seller" means an individual whose employment duties include selling or supplying medical equipment or supplies.

2. Page 4, line 13: delete lines 13 to 16 and substitute:

111.337 (1r) (b) Discriminating against any health care provider or medical equipment seller by engaging in any of the actions prohibited under s. 111.322 on the basis of the health care provider's or medical equipment seller's refusal, or statement of an intention to refuse, whether or not in writing, based on his or her creed, to participate in, or sell or provide medical equipment or supplies used for, any of the following:

*INSERT
4-8*

*INSERT
4-16*

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(END)

ASSEMBLY BILL 168

INSERT
14-1

(f) The withholding or withdrawal of nutrition or hydration, unless the administration of nutrition or hydration is medically contraindicated.

(g) An act that ^{intentionally} causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(3) (a) A person licensed as a pharmacist under this chapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to engage in a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (g) shall not be required to engage in the practice with respect to the activity and may not be disciplined by the board or department for refusing or stating an intention to refuse to engage in the practice with respect to the activity.

(b) A person who is adversely affected by, or who reasonably may be expected to be adversely affected by, conduct that is in violation of par. (a) may bring a civil action for injunctive relief, including reinstatement, damages, including damages for emotional or psychological distress, or both injunctive relief and damages. In an action under this paragraph, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief, an award of damages, or both.

Section 27 Initial applicability
Item #. 1399, 20: ^{page line}

REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of section 253.09 (title), (1), (1g), (2), (3), (4)(a) and (b) 1. and 2., and (5) and the creation of section 253.09(1r)(a) 1. to 7. of the Statutes

(3) This act first applies to refusals or statements of an intention to refuse that are made on the effective date of this subsection.

Item #. 1403, 5: ^{page line} after that line insert:

(3f) REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of sections 441.06 (title), (a)(a) and (b) 1. to 7., (7), and (8), and 448.03 (5) (title), (a), (ag), (am), and (ao), and 450.135, the renumbering and amendment of section 441.06 (a), and the creation of section 448.03 (5) (ar) 1. to 7. of the statutes first applies to refusals or statements of an intention to refuse that are made on the effective date of this subsection.

INSERT
IA

Line >

INSERT IA

Item #. ^{Page} 1413, ^{line} 3: after ~~that~~ that line insert:

" (6f) REFUSAL TO PARTICIPATE IN ^(CS) CERTAIN PROCEDURES. The treatment of section III. 337(1), (1g), and (1r)(b) of the statutes first applies to refusals or statements of an intention to refuse that are made on the effective date of this subsection. "

(end ms)

b175911

MDK:hmh

NOTE

Date

This amendment is based on AB-168, as affected by AA-1 and AA-2 to AB-168. Please let me know if ~~the~~ the amendment is not consistent with your intent.

1

(MDK)

* Also, note that this amendment ^{combines} combines Amendment number 106 with item 2 of Amendment number 104.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1759/1dn
MDK:hmh:kjf

June 26, 2001

This amendment is based on AB-168, as affected by AA-1 and AA-2 to AB-168. Please let me know if the amendment is not consistent with your intent.

Also, note that this amendment combines amendment number 106 with item 2 of amendment number 104.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Mark. Here's another
amendment to Walker
public facilities /
Conscience clause

motion

RT 601
include

M 559

6-9180



**ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 168**

1 At the locations indicated, amend the bill as follows:

2 1. Page 5, line 7: after that line insert:

3 "SECTION 3g. 154.03 (1) (intro.) of the statutes is amended to read:

4 154.03 (1) Any person of sound mind and 18 years of age or older may at any
5 time voluntarily execute a declaration, which shall take effect on the date of
6 execution, authorizing the withholding or withdrawal of life-sustaining procedures
7 or of feeding tubes when the person is in a terminal condition or is in a persistent
8 vegetative state. A declarant may not authorize the withholding or withdrawal of
9 any medication, life-sustaining procedure, or feeding tube if the declarant's
10 attending physician advises that, in his or her professional judgment, the
11 withholding or withdrawal will cause the declarant pain or reduce the declarant's
12 comfort and the pain or discomfort cannot be alleviated through pain relief
13 measures. A declarant may not authorize the withholding or withdrawal of nutrition

1 or hydration that is administered or otherwise received by the declarant through
2 means other than a feeding tube unless the declarant's attending physician advises
3 that, in his or her professional judgment, the administration is medically
4 contraindicated. A declaration must be signed by the declarant in the presence of 2
5 witnesses. If the declarant is physically unable to sign a declaration, the declaration
6 must be signed in the declarant's name by one of the witnesses or some other person
7 at the declarant's express direction and in his or her presence; such a proxy signing
8 shall either take place or be acknowledged by the declarant in the presence of 2
9 witnesses. The declarant is responsible for notifying his or her attending physician
10 of the existence of the declaration. An attending physician who is so notified shall
11 review the declaration and, if the physician intends to invoke his or her rights under
12 s. 253.09, inform the declarant orally and in writing of that intent and of the
13 physician's concerns, if any, about the declaration. An attending physician who is so
14 notified shall also make the declaration a part of the declarant's medical records. No
15 witness to the execution of the declaration may, at the time of the execution, be any
16 of the following:

17 **SECTION 3r.** 155.60 (3) of the statutes is amended to read:

18 155.60 (3) Upon receipt of a power of attorney for health care instrument or a
19 statement of incapacity under s. 155.05 (2), a health care facility or health care
20 provider shall acknowledge this receipt in writing and, if the principal is a patient
21 of the health care provider, the health care provider shall include the instrument or
22 the statement in the medical record of the principal. In addition, if the health care
23 provider is a physician and the principal is a patient of the physician, the physician
24 shall review the instrument or statement and, if the physician intends to invoke his

1 or her rights under s. 253.09, inform the principal orally and in writing of that intent
2 and of the physician's concerns, if any, about the instrument or statement."

3

(END)

O-NOTE

stays

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ARC:.....Hughes – AM106, Conscience clause for pharmacists and other health care providers; employment discrimination based on creed

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 912, line 20: after that line insert:

3 "SECTION 2606d. 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.)

4 and amended to read:

5 111.337 (1r) (intro.) Employment discrimination because of creed includes, but

6 is not limited to, refusing any of the following:

7 (a) Refusing to reasonably accommodate an employee's or prospective

8 employee's religious observance or practice unless the employer can demonstrate

9 that the accommodation would pose an undue hardship on the employer's program,

10 enterprise, or business.

1 **SECTION 2606g.** 111.337 (1g) of the statutes is created to read:

2 111.337 (1g) In this section:

3 (a) “Health care provider” means any of the following:

4 1. An individual licensed, registered, permitted, or certified by the department
5 of health and family services or the department of regulation and licensing to provide
6 health care services in this state.

7 2. An individual who provides health care services as directed, supervised, or
8 inspected by an individual specified in subd. 1.

9 (b) “Human embryo” includes any organism that is derived by fertilization,
10 parthenogenesis, cloning, or any other means from one or more human gametes or
11 human diploid cells.

12 (bm) “Medical equipment seller” means an individual whose employment
13 duties include selling or supplying medical equipment or supplies.

14 (c) “Participate in” means to perform, assist in, recommend, counsel in favor
15 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
16 promote, encourage, or aid.

17 **SECTION 2606j.** 111.337 (1r) (b) of the statutes is created to read:

18 111.337 (1r) (b) Discriminating against any health care provider or medical
19 equipment seller by engaging in any of the actions prohibited under s. 111.322 on the
20 basis of the health care provider’s or medical equipment seller’s refusal, or statement
21 of an intention to refuse, whether or not in writing, based on his or her creed, to
22 participate in, or sell or provide medical equipment or supplies used for, any of the
23 following:

24 1. A sterilization procedure.

1 2. A procedure involving a drug or device that may prevent the implantation
2 of a fertilized human ovum.

3 3. An abortion, as defined in s. 253.10 (2) (a).

4 4. An experiment or medical procedure involving any of the following:

5 a. The destruction of a human embryo.

6 b. A human embryo or unborn child, at any stage of development, in which the
7 experiment or procedure is not related to the beneficial treatment of the human
8 embryo or unborn child.

9 5. A procedure, including a transplant procedure, that uses fetal tissue or
10 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
11 miscarriage.

12 6. The withholding or withdrawal of nutrition or hydration, if the withholding
13 or withdrawal of nutrition or hydration would result in the patient's death from
14 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
15 than from the underlying terminal illness or injury, unless the administration of
16 nutrition or hydration is medically contraindicated.

17 7. An act that intentionally causes or assists in causing the death of an
18 individual, such as by assisted suicide, euthanasia, or mercy killing.”.

19 **2.** Page 1035, line 8: after that line insert:

20 “SECTION 3142p. 253.09 (title) of the statutes is amended to read:

21 **253.09** (title) ~~Abortion refused~~ **Refusal to participate in certain**
22 **practices; no liability; no discrimination.**

23 SECTION 3142pc. 253.09 (1) of the statutes is renumbered 253.09 (1r) (a)
24 (intro.) and amended to read:

INSERT 3-18

1 253.09 (1r) (a) (intro.) No hospital ~~shall be~~ is required to admit any patient or
2 to allow the use of the hospital facilities for the purpose of performing a sterilization
3 ~~procedure or removing a human embryo or fetus.~~ any of the following:

4 (b) A physician or any other person who is a member of or associated with the
5 staff of a hospital, or any employee of a hospital in which such a procedure the
6 performance of an activity specified in par. (a) 1. to 7. has been authorized, who shall
7 state in writing his or her objection to the performance of or providing assistance to
8 such a procedure, in writing, refuses, or states an intention to refuse, to participate
9 in the activity on moral or religious grounds shall not be required to participate in
10 such medical procedure, and the activity.

11 (c) A physician or any other person who is a member of or associated with the
12 staff of a hospital, or any employee of a hospital, is immune from liability for any
13 damage caused by, and may not be subjected to any disciplinary or recriminatory
14 action based on, the refusal of any such the person to participate therein shall not
15 form the basis of any claim for damages on account of such refusal or for any
16 disciplinary or recriminatory action against such person in an activity specified in
17 par. (a) 1. to 7. on moral or religious grounds.

18 **SECTION 3142pe.** 253.09 (1g) of the statutes is created to read:

19 253.09 (1g) In this section:

20 (a) “Human embryo” includes any organism that is derived by fertilization,
21 parthenogenesis, cloning, or any other means from one or more human gametes or
22 human diploid cells.

23 (b) “Participate in” means to perform, assist in, recommend, counsel in favor
24 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
25 promote, encourage, or aid.

1 **SECTION 3142pf.** 253.09 (1r) (a) 1. to 7. of the statutes are created to read:

2 253.09 (1r) (a) 1. A sterilization procedure.

3 2. A procedure involving a drug or device that may prevent the implantation
4 of a fertilized human ovum.

5 3. An abortion, as defined in s. 253.10 (2) (a).

6 4. An experiment or medical procedure involving any of the following:

7 a. The destruction of a human embryo.

8 b. A human embryo or unborn child, at any stage of development, in which the
9 experiment or procedure is not related to the beneficial treatment of the human
10 embryo or unborn child.

11 5. A procedure, including a transplant procedure, that uses fetal tissue or
12 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
13 miscarriage.

14 6. The withholding or withdrawal of nutrition or hydration, if the withholding
15 or withdrawal of nutrition or hydration would result in the patient's death from
16 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
17 than from the underlying terminal illness or injury, unless the administration of
18 nutrition or hydration is medically contraindicated.

19 7. An act that intentionally causes or assists in causing the death of an
20 individual, such as by assisted suicide, euthanasia, or mercy killing.

21 **SECTION 3142ph.** 253.09 (2) of the statutes is amended to read:

22 253.09 (2) ~~No A hospital or employee of any a hospital shall be liable for any~~
23 ~~civil damages resulting from~~ is immune from liability for any damage caused by a
24 ~~refusal to perform sterilization procedures or remove a human embryo or fetus from~~

1 ~~a person, if such~~ participate in an activity specified in sub. (1r) (a) 1. to 7., if the
2 refusal is based on religious or moral precepts.

3 **SECTION 3142pj.** 253.09 (3) of the statutes is amended to read:

4 253.09 (3) No hospital, school, or employer may discriminate against any
5 person with regard to admission, hiring or firing, tenure, term, condition, or privilege
6 of employment, student status, or staff status on the ground that the person refuses
7 ~~to recommend, aid or perform procedures for sterilization or the removal of a human~~
8 ~~embryo or fetus, or states an intention to refuse, whether or not in writing, to~~
9 participate in an activity specified in sub. (1r) (a) 1. to 7., if the refusal is based on
10 religious or moral precepts.

11 **SECTION 3142pL.** 253.09 (4) (a) of the statutes is amended to read:

12 253.09 (4) (a) Such individual ~~to perform or assist in the performance of any~~
13 ~~sterilization procedure or removal of a human embryo or fetus~~ participate in an
14 activity specified in sub. (1r) (a) 1. to 7., if the individual's performance or assistance
15 participation in the performance of such a procedure would be activity is contrary to
16 the individual's religious beliefs or moral convictions; or

17 **SECTION 3142pn.** 253.09 (4) (b) 1. of the statutes is amended to read:

18 253.09 (4) (b) 1. Make its facilities available for ~~the performance of any~~
19 ~~sterilization procedure or removal of a human embryo or fetus~~ an individual to
20 participate in an activity specified in sub. (1r) (a) 1. to 7., if the performance of such
21 a procedure in such facilities is prohibited by the entity prohibits the activity from
22 taking place in the facilities on the basis of religious beliefs or moral convictions; or

23 **SECTION 3142pp.** 253.09 (4) (b) 2. of the statutes is amended to read:

24 253.09 (4) (b) 2. Provide any personnel ~~for the performance or assistance in the~~
25 ~~performance of any sterilization procedure or assistance to~~ participate in an activity

1 ~~specified in sub. (1r) (a) 1. to 7., if the performance or assistance in the performance~~
2 ~~of such procedure or the removal of a human embryo or fetus by such personnel would~~
3 ~~be~~ activity is contrary to the religious beliefs or moral convictions of such the
4 personnel.

5 **SECTION 3142pr.** 253.09 (5) of the statutes is created to read:

6 253.09 (5) A person who is adversely affected by, or who reasonably may be
7 expected to be adversely affected by, conduct that is in violation of this section may
8 bring a civil action for injunctive relief, including reinstatement, damages, including
9 damages for emotional or psychological distress, or both injunctive relief and
10 damages. In an action under this subsection, the court shall award reasonable
11 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
12 an award of damages, or both.”.

13 **3.** Page 1156, line 6: after that line insert:

14 **“SECTION 3605c.** 441.06 (title) of the statutes is amended to read:

15 **441.06 (title) Licensure; civil liability and disciplinary exemption.**

16 **SECTION 3605e.** 441.06 (6) of the statutes is renumbered 441.06 (6) (b) (intro.)
17 and amended to read:

18 441.06 (6) (b) (intro.) ~~No~~ A person licensed as a registered nurse under this
19 section is ~~liable for any civil damages resulting from~~ immune from liability for any
20 damage caused by his or her refusal to perform sterilization procedures or to remove
21 or aid in the removal of a human embryo or fetus from a person, assist in, recommend,
22 counsel in favor of, make referrals for, prescribe, dispense or administer drugs for,
23 or otherwise promote, encourage, or aid any of the following, if the refusal is based
24 on religious or moral precepts:

1 **SECTION 3605g.** 441.06 (6) (a) of the statutes is created to read:

2 441.06 (6) (a) In this subsection, “human embryo” includes any organism that
3 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
4 more human gametes or human diploid cells.

5 **SECTION 3605i.** 441.06 (6) (b) 1. to 7. of the statutes are created to read:

6 441.06 (6) (b) 1. A sterilization procedure.

7 2. A procedure involving a drug or device that may prevent the implantation
8 of a fertilized human ovum.

9 3. An abortion, as defined in s. 253.10 (2) (a).

10 4. An experiment or medical procedure involving any of the following:

11 a. The destruction of a human embryo.

12 b. A human embryo or unborn child, at any stage of development, in which the
13 experiment or procedure is not related to the beneficial treatment of the human
14 embryo or unborn child.

15 5. A procedure, including a transplant procedure, that uses fetal tissue or
16 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
17 miscarriage.

18 6. The withholding or withdrawal of nutrition or hydration, if the withholding
19 or withdrawal of nutrition or hydration would result in the patient’s death from
20 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
21 than from the underlying terminal illness or injury, unless the administration of
22 nutrition or hydration is medically contraindicated.

23 7. An act that intentionally causes or assists in causing the death of an
24 individual, such as by assisted suicide, euthanasia, or mercy killing.

25 **SECTION 3605k.** 441.06 (7) of the statutes is created to read:

1 441.06 (7) A person licensed as a registered nurse under this section who, in
2 writing, refuses, or states an intention to refuse, on moral or religious grounds to
3 engage in a practice of professional nursing that is related to an activity specified in
4 sub. (6) (b) 1. to 7. shall not be required to engage in the practice with respect to the
5 activity and may not be disciplined by the board or the department for refusing or
6 stating an intention to refuse to engage in the practice with respect to the activity.

7 **SECTION 3605m.** 441.06 (8) of the statutes is created to read:

8 441.06 (8) A person who is adversely affected by, or who reasonably may be
9 expected to be adversely affected by, conduct that is in violation of sub. (7) may bring
10 a civil action for injunctive relief, including reinstatement, damages, including
11 damages for emotional or psychological distress, or both injunctive relief and
12 damages. In an action under this subsection, the court shall award reasonable
13 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
14 an award of damages, or both.

15 **SECTION 3608c.** 448.03 (5) (title) of the statutes is amended to read:

16 448.03 (5) (title) CIVIL LIABILITY AND DISCIPLINARY EXEMPTION; CERTAIN MEDICAL
17 PROCEDURES AND REPORTS.

18 **SECTION 3608e.** 448.03 (5) (a) of the statutes is renumbered 448.03 (5) (ar)
19 (intro.) and amended to read:

20 448.03 (5) (ar) (intro.) No A person licensed or certified under this subchapter
21 shall be liable for any civil damages resulting from such is immune from liability for
22 any damage caused by the person's refusal to perform sterilization procedures or to
23 remove or aid in the removal of a human embryo or fetus from a person if such, assist
24 in, recommend, counsel in favor of, make referrals for, prescribe, dispense or

1 administer drugs for, or otherwise promote, encourage, or aid any of the following if
2 the refusal is based on religious or moral precepts:

3 **SECTION 3608g.** 448.03 (5) (ag) of the statutes is created to read:

4 448.03 (5) (ag) In this subsection, “human embryo” includes any organism that
5 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
6 more human gametes or human diploid cells.

7 **SECTION 3608i.** 448.03 (5) (am) of the statutes is created to read:

8 448.03 (5) (am) A person licensed or certified under this subchapter who, in
9 writing, refuses, or states an intention to refuse, on moral or religious grounds to
10 engage in a practice within the scope of his or her license or certification that is
11 related to an activity specified in par. (ar) 1. to 7. shall not be required to engage in
12 the practice with respect to the activity and, notwithstanding s. 154.07 (1) (a) 3. or
13 155.50 (1) (b), may not be disciplined by the board or the department for refusing or
14 stating an intention to refuse to engage in the practice with respect to the activity,
15 including refusing or stating an intention to refuse to transfer a patient to another
16 physician who will comply with a declaration, as defined in s. 154.02 (1), instrument
17 for power of attorney for health care, as defined in s. 155.01 (10), or health care
18 decision, as defined in s. 155.01 (5), of a health care agent, as defined in s. 155.01 (4).
19 This paragraph does not apply to the refusal to make a good faith attempt to transfer
20 a declarant with incapacity, as defined in s. 155.01 (8) and with a terminal condition,
21 as defined in s. 154.01 (8), to another physician who will comply with the declaration
22 of the declarant.

23 **SECTION 3608k.** 448.03 (5) (ao) of the statutes is created to read:

24 448.03 (5) (ao) A person who is adversely affected by, or who reasonably may
25 be expected to be adversely affected by, conduct that is in violation of par. (am) may

1 bring a civil action for injunctive relief, including reinstatement, damages, including
2 damages for emotional or psychological distress, or both injunctive relief and
3 damages. In an action under this paragraph, the court shall award reasonable
4 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
5 an award of damages, or both.

6 **SECTION 3608L.** 448.03 (5) (ar) 1. to 7. of the statutes are created to read:

7 448.03 (5) (ar) 1. A sterilization procedure.

8 2. A procedure involving a drug or device that may prevent the implantation
9 of a fertilized human ovum.

10 3. An abortion, as defined in s. 253.10 (2) (a).

11 4. An experiment or medical procedure involving any of the following:

12 a. The destruction of a human embryo.

13 b. A human embryo or unborn child, at any stage of development, in which the
14 experiment or procedure is not related to the beneficial treatment of the human
15 embryo or unborn child.

16 5. A procedure, including a transplant procedure, that uses fetal tissue or
17 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
18 miscarriage.

19 6. The withholding or withdrawal of nutrition or hydration, if the withholding
20 or withdrawal of nutrition or hydration would result in the patient's death from
21 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
22 than from the underlying terminal illness or injury, unless the administration of
23 nutrition or hydration is medically contraindicated.

24 7. An act that intentionally causes or assists in causing the death of an
25 individual, such as by assisted suicide, euthanasia, or mercy killing.

1 **SECTION 3608m.** 450.135 of the statutes is created to read:

2 **450.135 Pharmacist's refusal to be involved in certain activities. (1)**

3 In this section, "human embryo" includes any organism that is derived by
4 fertilization, parthenogenesis, cloning, or any other means from one or more human
5 gametes or human diploid cells.

6 (2) A person licensed as a pharmacist under this chapter is immune from
7 liability for any damage caused by his or her refusal to be involved in the performance
8 of, assistance in, recommendation of, counseling in favor of, making referrals for,
9 prescribing, dispensing or administering drugs for, or otherwise promoting,
10 encouraging, or aiding any of the following, if the refusal is based on religious or
11 moral precepts:

12 (a) A sterilization procedure.

13 (b) A procedure involving a drug or device that may prevent the implantation
14 of a fertilized human ovum.

15 (c) An abortion, as defined in s. 253.10 (2) (a).

16 (d) An experiment or medical procedure involving any of the following:

17 1. The destruction of a human embryo.

18 2. A human embryo or unborn child, at any stage of development, in which the
19 experiment or procedure is not related to the beneficial treatment of the human
20 embryo or unborn child.

21 (e) A procedure, including a transplant procedure, that uses fetal tissue or
22 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
23 miscarriage.

24 (f) The withholding or withdrawal of nutrition or hydration, if the withholding
25 or withdrawal of nutrition or hydration would result in the patient's death from

1 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
2 than from the underlying terminal illness or injury, unless the administration of
3 nutrition or hydration is medically contraindicated.

4 (g) An act that intentionally causes or assists in causing the death of an
5 individual, such as by assisted suicide, euthanasia, or mercy killing.

6 (3) (a) A person licensed as a pharmacist under this chapter who, in writing,
7 refuses, or states an intention to refuse, on moral or religious grounds to engage in
8 a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (g) shall
9 not be required to engage in the practice with respect to the activity and may not be
10 disciplined by the board or department for refusing or stating an intention to refuse
11 to engage in the practice with respect to the activity.

12 (b) A person who is adversely affected by, or who reasonably may be expected
13 to be adversely affected by, conduct that is in violation of par. (a) may bring a civil
14 action for injunctive relief, including reinstatement, damages, including damages
15 for emotional or psychological distress, or both injunctive relief and damages. In an
16 action under this paragraph, the court shall award reasonable attorney fees,
17 notwithstanding s. 814.04 (1), to a person who obtains injunctive relief, an award of
18 damages, or both.”

19 **4.** Page 1399, line 20: after that line insert:

20 “(17f) REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of section
21 253.09 (title), (1), (1g), (2), (3), (4) (a) and (b) 1. and 2., and (5) and the creation of
22 section 253.09 (1r) (a) 1. to 7. of the statutes first applies to refusals or statements
23 of an intention to refuse that are made on the effective date of this subsection.”

24 **5.** Page 1403, line 5: after that line insert:

INSERT 13-23

INSERT 3-18:

ASSEMBLY AMENDMENT
TO 2001 ASSEMBLY BILL 168

957

3

At the locations indicated, amend the bill as follows:
1. Page 4, line 7: after that line insert:

2852 ag

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"SECTION 154.03 (1) (intro.) of the statutes is amended to read:

154.03 (1) Any person of sound mind and 18 years of age or older may at any time voluntarily execute a declaration, which shall take effect on the date of execution, authorizing the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or is in a persistent vegetative state. A declarant may not authorize the withholding or withdrawal of any medication, life-sustaining procedure, or feeding tube if the declarant's attending physician advises that, in his or her professional judgment, the withholding or withdrawal will cause the declarant pain or reduce the declarant's comfort and the pain or discomfort cannot be alleviated through pain relief measures. A declarant may not authorize the withholding or withdrawal of nutrition

INSERT 3-18: continued

1 or hydration that is administered or otherwise received by the declarant through
2 means other than a feeding tube unless the declarant's attending physician advises
3 that, in his or her professional judgment, the administration is medically
4 contraindicated. A declaration must be signed by the declarant in the presence of 2
5 witnesses. If the declarant is physically unable to sign a declaration, the declaration
6 must be signed in the declarant's name by one of the witnesses or some other person
7 at the declarant's express direction and in his or her presence; such a proxy signing
8 shall either take place or be acknowledged by the declarant in the presence of 2
9 witnesses. The declarant is responsible for notifying his or her attending physician
10 of the existence of the declaration. An attending physician who is so notified shall
11 review the declaration and, if the physician intends to invoke his or her rights under
12 s. 253.09, inform the declarant orally and in writing of that intent and of the
13 physician's concerns, if any, about the declaration. An attending physician who is so
14 notified shall also make the declaration a part of the declarant's medical records. No
15 witness to the execution of the declaration may, at the time of the execution, be any
16 of the following:

17 SECTION ~~155.60~~ 155.60 (3) of the statutes is amended to read:

18 155.60 (3) Upon receipt of a power of attorney for health care instrument or a
19 statement of incapacity under s. 155.05 (2), a health care facility or health care
20 provider shall acknowledge this receipt in writing and, if the principal is a patient
21 of the health care provider, the health care provider shall include the instrument or
22 the statement in the medical record of the principal. In addition, if the health care
23 provider is a physician and the principal is a patient of the physician, the physician
24 shall review the instrument or statement and, if the physician intends to invoke his

INSERT 3-18 (continued)

1 or her rights under s. 253.09, inform the principal orally and in writing of that intent
2 and of the physician's concerns, if any, about the instrument or statement."

3

(END)

END of INSERT

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1759/2ins
MDK:.....

1

INSERT 13-23:

2

(18f) DECLARATIONS TO PHYSICIANS. The treatment of section 154.03 (1) (intro.)
3 of the statutes first applies to notifications of the existence of a declaration that occur
4 on the effective date of this subsection.

5

(19f) POWER OF ATTORNEY FOR HEALTH CARE. The treatment of section 155.60 (3)
6 of the statutes first applies to instruments or statements reviewed on the effective
7 date of this subsection.” ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1759/2dn

MDK::jmh

Date

Carolyn Hughes:

This version is identical to the previous version except that it amends ss. 154.03 (1) (intro.) and 155.60 (3), stats. The change was requested by Representative Walker's office and okayed by R. J. Pirlot.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1759/2dn
MDK:hmh:jf

June 27, 2001

Carolyn Hughes:

This version is identical to the previous version except that it amends ss. 154.03 (1) (intro.) and 155.60 (3), stats. The change was requested by Representative Walker's office and okayed by R. J. Pirlot.

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ARC:.....Hughes – AM106, Conscience clause for pharmacists and other health care providers; employment discrimination based on creed

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 912, line 20: after that line insert:

3 “**SECTION 2606d.** 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.)

4 and amended to read:

5 111.337 (1r) (intro.) Employment discrimination because of creed includes, but
6 is not limited to, ~~refusing~~ any of the following:

7 (a) Refusing to reasonably accommodate an employee’s or prospective
8 employee’s religious observance or practice unless the employer can demonstrate
9 that the accommodation would pose an undue hardship on the employer’s program,
10 enterprise, or business.

1 **SECTION 2606g.** 111.337 (1g) of the statutes is created to read:

2 111.337 (1g) In this section:

3 (a) “Health care provider” means any of the following:

4 1. An individual licensed, registered, permitted, or certified by the department
5 of health and family services or the department of regulation and licensing to provide
6 health care services in this state.

7 2. An individual who provides health care services as directed, supervised, or
8 inspected by an individual specified in subd. 1.

9 (b) “Human embryo” includes any organism that is derived by fertilization,
10 parthenogenesis, cloning, or any other means from one or more human gametes or
11 human diploid cells.

12 (bm) “Medical equipment seller” means an individual whose employment
13 duties include selling or supplying medical equipment or supplies.

14 (c) “Participate in” means to perform, assist in, recommend, counsel in favor
15 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
16 promote, encourage, or aid.

17 **SECTION 2606j.** 111.337 (1r) (b) of the statutes is created to read:

18 111.337 (1r) (b) Discriminating against any health care provider or medical
19 equipment seller by engaging in any of the actions prohibited under s. 111.322 on the
20 basis of the health care provider’s or medical equipment seller’s refusal, or statement
21 of an intention to refuse, whether or not in writing, based on his or her creed, to
22 participate in, or sell or provide medical equipment or supplies used for, any of the
23 following:

24 1. A sterilization procedure.

1 2. A procedure involving a drug or device that may prevent the implantation
2 of a fertilized human ovum.

3 3. An abortion, as defined in s. 253.10 (2) (a).

4 4. An experiment or medical procedure involving any of the following:

5 a. The destruction of a human embryo.

6 b. A human embryo or unborn child, at any stage of development, in which the
7 experiment or procedure is not related to the beneficial treatment of the human
8 embryo or unborn child.

9 5. A procedure, including a transplant procedure, that uses fetal tissue or
10 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
11 miscarriage.

12 6. The withholding or withdrawal of nutrition or hydration, if the withholding
13 or withdrawal of nutrition or hydration would result in the patient's death from
14 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
15 than from the underlying terminal illness or injury, unless the administration of
16 nutrition or hydration is medically contraindicated.

17 7. An act that intentionally causes or assists in causing the death of an
18 individual, such as by assisted suicide, euthanasia, or mercy killing.”.

19 **2.** Page 957, line 3: after that line insert:

20 “**SECTION 2852ag.** 154.03 (1) (intro.) of the statutes is amended to read:

21 154.03 (1) Any person of sound mind and 18 years of age or older may at any
22 time voluntarily execute a declaration, which shall take effect on the date of
23 execution, authorizing the withholding or withdrawal of life-sustaining procedures
24 or of feeding tubes when the person is in a terminal condition or is in a persistent

1 vegetative state. A declarant may not authorize the withholding or withdrawal of
2 any medication, life-sustaining procedure, or feeding tube if the declarant's
3 attending physician advises that, in his or her professional judgment, the
4 withholding or withdrawal will cause the declarant pain or reduce the declarant's
5 comfort and the pain or discomfort cannot be alleviated through pain relief
6 measures. A declarant may not authorize the withholding or withdrawal of nutrition
7 or hydration that is administered or otherwise received by the declarant through
8 means other than a feeding tube unless the declarant's attending physician advises
9 that, in his or her professional judgment, the administration is medically
10 contraindicated. A declaration must be signed by the declarant in the presence of 2
11 witnesses. If the declarant is physically unable to sign a declaration, the declaration
12 must be signed in the declarant's name by one of the witnesses or some other person
13 at the declarant's express direction and in his or her presence; such a proxy signing
14 shall either take place or be acknowledged by the declarant in the presence of 2
15 witnesses. The declarant is responsible for notifying his or her attending physician
16 of the existence of the declaration. An attending physician who is so notified shall
17 review the declaration and, if the physician intends to invoke his or her rights under
18 s. 253.09, inform the declarant orally and in writing of that intent and of the
19 physician's concerns, if any, about the declaration. An attending physician who is so
20 notified shall also make the declaration a part of the declarant's medical records. No
21 witness to the execution of the declaration may, at the time of the execution, be any
22 of the following:

23 **SECTION 2852aj.** 155.60 (3) of the statutes is amended to read:

24 155.60 (3) Upon receipt of a power of attorney for health care instrument or a
25 statement of incapacity under s. 155.05 (2), a health care facility or health care

1 provider shall acknowledge this receipt in writing and, if the principal is a patient
2 of the health care provider, the health care provider shall include the instrument or
3 the statement in the medical record of the principal. In addition, if the health care
4 provider is a physician and the principal is a patient of the physician, the physician
5 shall review the instrument or statement and, if the physician intends to invoke his
6 or her rights under s. 253.09, inform the principal orally and in writing of that intent
7 and of the physician's concerns, if any, about the instrument or statement."

8 **3.** Page 1035, line 8: after that line insert:

9 "SECTION 3142p. 253.09 (title) of the statutes is amended to read:

10 **253.09 (title) ~~Abortion refused~~ Refusal to participate in certain**
11 **practices; no liability; no discrimination.**

12 **SECTION 3142pc.** 253.09 (1) of the statutes is renumbered 253.09 (1r) (a)
13 (intro.) and amended to read:

14 253.09 (1r) (a) (intro.) No hospital shall be is required to admit any patient or
15 to allow the use of the hospital facilities for the purpose of performing a sterilization
16 ~~procedure or removing a human embryo or fetus.~~ any of the following:

17 (b) A physician or any other person who is a member of or associated with the
18 staff of a hospital, or any employee of a hospital in which ~~such a procedure~~ the
19 performance of an activity specified in par. (a) 1. to 7. has been authorized, who ~~shall~~
20 ~~state in writing his or her objection to the performance of or providing assistance to~~
21 ~~such a procedure, in writing, refuses, or states an intention to refuse, to participate~~
22 in the activity on moral or religious grounds shall not be required to participate in
23 ~~such medical procedure, and the activity.~~

1 (c) A physician or any other person who is a member of or associated with the
2 staff of a hospital, or any employee of a hospital, is immune from liability for any
3 damage caused by, and may not be subjected to any disciplinary or recriminatory
4 action based on, the refusal of any such the person to participate therein shall not
5 form the basis of any claim for damages on account of such refusal or for any
6 disciplinary or recriminatory action against such person in an activity specified in
7 par. (a) 1. to 7. on moral or religious grounds.

8 **SECTION 3142pe.** 253.09 (1g) of the statutes is created to read:

9 253.09 (1g) In this section:

10 (a) “Human embryo” includes any organism that is derived by fertilization,
11 parthenogenesis, cloning, or any other means from one or more human gametes or
12 human diploid cells.

13 (b) “Participate in” means to perform, assist in, recommend, counsel in favor
14 of, make referrals for, prescribe, dispense or administer drugs for, or otherwise
15 promote, encourage, or aid.

16 **SECTION 3142pf.** 253.09 (1r) (a) 1. to 7. of the statutes are created to read:

17 253.09 (1r) (a) 1. A sterilization procedure.

18 2. A procedure involving a drug or device that may prevent the implantation
19 of a fertilized human ovum.

20 3. An abortion, as defined in s. 253.10 (2) (a).

21 4. An experiment or medical procedure involving any of the following:

22 a. The destruction of a human embryo.

23 b. A human embryo or unborn child, at any stage of development, in which the
24 experiment or procedure is not related to the beneficial treatment of the human
25 embryo or unborn child.

1 5. A procedure, including a transplant procedure, that uses fetal tissue or
2 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
3 miscarriage.

4 6. The withholding or withdrawal of nutrition or hydration, if the withholding
5 or withdrawal of nutrition or hydration would result in the patient's death from
6 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
7 than from the underlying terminal illness or injury, unless the administration of
8 nutrition or hydration is medically contraindicated.

9 7. An act that intentionally causes or assists in causing the death of an
10 individual, such as by assisted suicide, euthanasia, or mercy killing.

11 **SECTION 3142ph.** 253.09 (2) of the statutes is amended to read:

12 253.09 (2) ~~No A hospital or employee of any a hospital shall be liable for any~~
13 ~~civil damages resulting from~~ is immune from liability for any damage caused by a
14 ~~refusal to perform sterilization procedures or remove a human embryo or fetus from~~
15 ~~a person, if such~~ participate in an activity specified in sub. (1r) (a) 1. to 7., if the
16 ~~refusal is based on religious or moral precepts.~~

17 **SECTION 3142pj.** 253.09 (3) of the statutes is amended to read:

18 253.09 (3) No hospital, school, or employer may discriminate against any
19 person with regard to admission, hiring or firing, tenure, term, condition, or privilege
20 of employment, student status, or staff status on the ground that the person refuses
21 ~~to recommend, aid or perform procedures for sterilization or the removal of a human~~
22 ~~embryo or fetus, or states an intention to refuse, whether or not in writing, to~~
23 participate in an activity specified in sub. (1r) (a) 1. to 7., if the refusal is based on
24 ~~religious or moral precepts.~~

25 **SECTION 3142pL.** 253.09 (4) (a) of the statutes is amended to read:

1 253.09 (4) (a) ~~Such individual to perform or assist in the performance of any~~
2 ~~sterilization procedure or removal of a human embryo or fetus~~ participate in an
3 activity specified in sub. (1r) (a) 1. to 7., if the individual's performance or assistance
4 participation in the performance of such a procedure would be activity is contrary to
5 the individual's religious beliefs or moral convictions; or

6 **SECTION 3142pn.** 253.09 (4) (b) 1. of the statutes is amended to read:

7 253.09 (4) (b) 1. Make its facilities available for ~~the performance of any~~
8 ~~sterilization procedure or removal of a human embryo or fetus~~ an individual to
9 participate in an activity specified in sub. (1r) (a) 1. to 7., if the performance of such
10 a procedure in such facilities is prohibited by the entity prohibits the activity from
11 taking place in the facilities on the basis of religious beliefs or moral convictions; or

12 **SECTION 3142pp.** 253.09 (4) (b) 2. of the statutes is amended to read:

13 253.09 (4) (b) 2. Provide any personnel ~~for the performance or assistance in the~~
14 ~~performance of any sterilization procedure or assistance~~ to participate in an activity
15 specified in sub. (1r) (a) 1. to 7., if the performance or assistance in the performance
16 of such procedure or the removal of a human embryo or fetus by such personnel would
17 be activity is contrary to the religious beliefs or moral convictions of such the
18 personnel.

19 **SECTION 3142pr.** 253.09 (5) of the statutes is created to read:

20 253.09 (5) A person who is adversely affected by, or who reasonably may be
21 expected to be adversely affected by, conduct that is in violation of this section may
22 bring a civil action for injunctive relief, including reinstatement, damages, including
23 damages for emotional or psychological distress, or both injunctive relief and
24 damages. In an action under this subsection, the court shall award reasonable

1 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
2 an award of damages, or both.”.

3 **4.** Page 1156, line 6: after that line insert:

4 “**SECTION 3605c.** 441.06 (title) of the statutes is amended to read:

5 **441.06 (title) Licensure; civil liability and disciplinary exemption.**

6 **SECTION 3605e.** 441.06 (6) of the statutes is renumbered 441.06 (6) (b) (intro.)

7 and amended to read:

8 441.06 (6) (b) (intro.) No A person licensed as a registered nurse under this
9 section is ~~liable for any civil damages resulting from~~ immune from liability for any
10 damage caused by his or her refusal to perform sterilization procedures or to remove
11 or aid in the removal of a human embryo or fetus from a person, assist in, recommend,
12 counsel in favor of, make referrals for, prescribe, dispense or administer drugs for,
13 or otherwise promote, encourage, or aid any of the following, if the refusal is based
14 on religious or moral precepts.

15 **SECTION 3605g.** 441.06 (6) (a) of the statutes is created to read:

16 441.06 (6) (a) In this subsection, “human embryo” includes any organism that
17 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
18 more human gametes or human diploid cells.

19 **SECTION 3605i.** 441.06 (6) (b) 1. to 7. of the statutes are created to read:

20 441.06 (6) (b) 1. A sterilization procedure.

21 2. A procedure involving a drug or device that may prevent the implantation
22 of a fertilized human ovum.

23 3. An abortion, as defined in s. 253.10 (2) (a).

24 4. An experiment or medical procedure involving any of the following:

1 a. The destruction of a human embryo.

2 b. A human embryo or unborn child, at any stage of development, in which the
3 experiment or procedure is not related to the beneficial treatment of the human
4 embryo or unborn child.

5 5. A procedure, including a transplant procedure, that uses fetal tissue or
6 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
7 miscarriage.

8 6. The withholding or withdrawal of nutrition or hydration, if the withholding
9 or withdrawal of nutrition or hydration would result in the patient's death from
10 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
11 than from the underlying terminal illness or injury, unless the administration of
12 nutrition or hydration is medically contraindicated.

13 7. An act that intentionally causes or assists in causing the death of an
14 individual, such as by assisted suicide, euthanasia, or mercy killing.

15 **SECTION 3605k.** 441.06 (7) of the statutes is created to read:

16 441.06 (7) A person licensed as a registered nurse under this section who, in
17 writing, refuses, or states an intention to refuse, on moral or religious grounds to
18 engage in a practice of professional nursing that is related to an activity specified in
19 sub. (6) (b) 1. to 7. shall not be required to engage in the practice with respect to the
20 activity and may not be disciplined by the board or the department for refusing or
21 stating an intention to refuse to engage in the practice with respect to the activity.

22 **SECTION 3605m.** 441.06 (8) of the statutes is created to read:

23 441.06 (8) A person who is adversely affected by, or who reasonably may be
24 expected to be adversely affected by, conduct that is in violation of sub. (7) may bring
25 a civil action for injunctive relief, including reinstatement, damages, including

1 damages for emotional or psychological distress, or both injunctive relief and
2 damages. In an action under this subsection, the court shall award reasonable
3 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
4 an award of damages, or both.

5 **SECTION 3608c.** 448.03 (5) (title) of the statutes is amended to read:

6 448.03 (5) (title) CIVIL LIABILITY AND DISCIPLINARY EXEMPTION; CERTAIN MEDICAL
7 PROCEDURES AND REPORTS.

8 **SECTION 3608e.** 448.03 (5) (a) of the statutes is renumbered 448.03 (5) (ar)
9 (intro.) and amended to read:

10 448.03 (5) (ar) (intro.) ~~No~~ A person licensed or certified under this subchapter
11 shall be liable for any civil damages resulting from such is immune from liability for
12 any damage caused by the person's refusal to perform sterilization procedures or to
13 remove or aid in the removal of a human embryo or fetus from a person if such, assist
14 in, recommend, counsel in favor of, make referrals for, prescribe, dispense or
15 administer drugs for, or otherwise promote, encourage, or aid any of the following if
16 the refusal is based on religious or moral precepts;

17 **SECTION 3608g.** 448.03 (5) (ag) of the statutes is created to read:

18 448.03 (5) (ag) In this subsection, "human embryo" includes any organism that
19 is derived by fertilization, parthenogenesis, cloning, or any other means from one or
20 more human gametes or human diploid cells.

21 **SECTION 3608i.** 448.03 (5) (am) of the statutes is created to read:

22 448.03 (5) (am) A person licensed or certified under this subchapter who, in
23 writing, refuses, or states an intention to refuse, on moral or religious grounds to
24 engage in a practice within the scope of his or her license or certification that is
25 related to an activity specified in par. (ar) 1. to 7. shall not be required to engage in

1 the practice with respect to the activity and, notwithstanding s. 154.07 (1) (a) 3. or
2 155.50 (1) (b), may not be disciplined by the board or the department for refusing or
3 stating an intention to refuse to engage in the practice with respect to the activity,
4 including refusing or stating an intention to refuse to transfer a patient to another
5 physician who will comply with a declaration, as defined in s. 154.02 (1), instrument
6 for power of attorney for health care, as defined in s. 155.01 (10), or health care
7 decision, as defined in s. 155.01 (5), of a health care agent, as defined in s. 155.01 (4).
8 This paragraph does not apply to the refusal to make a good faith attempt to transfer
9 a declarant with incapacity, as defined in s. 155.01 (8) and with a terminal condition,
10 as defined in s. 154.01 (8), to another physician who will comply with the declaration
11 of the declarant.

12 **SECTION 3608k.** 448.03 (5) (ao) of the statutes is created to read:

13 448.03 (5) (ao) A person who is adversely affected by, or who reasonably may
14 be expected to be adversely affected by, conduct that is in violation of par. (am) may
15 bring a civil action for injunctive relief, including reinstatement, damages, including
16 damages for emotional or psychological distress, or both injunctive relief and
17 damages. In an action under this paragraph, the court shall award reasonable
18 attorney fees, notwithstanding s. 814.04 (1), to a person who obtains injunctive relief,
19 an award of damages, or both.

20 **SECTION 3608L.** 448.03 (5) (ar) 1. to 7. of the statutes are created to read:

21 448.03 (5) (ar) 1. A sterilization procedure.

22 2. A procedure involving a drug or device that may prevent the implantation
23 of a fertilized human ovum.

24 3. An abortion, as defined in s. 253.10 (2) (a).

25 4. An experiment or medical procedure involving any of the following:

1 a. The destruction of a human embryo.

2 b. A human embryo or unborn child, at any stage of development, in which the
3 experiment or procedure is not related to the beneficial treatment of the human
4 embryo or unborn child.

5 5. A procedure, including a transplant procedure, that uses fetal tissue or
6 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
7 miscarriage.

8 6. The withholding or withdrawal of nutrition or hydration, if the withholding
9 or withdrawal of nutrition or hydration would result in the patient's death from
10 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
11 than from the underlying terminal illness or injury, unless the administration of
12 nutrition or hydration is medically contraindicated.

13 7. An act that intentionally causes or assists in causing the death of an
14 individual, such as by assisted suicide, euthanasia, or mercy killing.

15 **SECTION 3608m.** 450.135 of the statutes is created to read:

16 **450.135 Pharmacist's refusal to be involved in certain activities. (1)**

17 In this section, "human embryo" includes any organism that is derived by
18 fertilization, parthenogenesis, cloning, or any other means from one or more human
19 gametes or human diploid cells.

20 **(2)** A person licensed as a pharmacist under this chapter is immune from
21 liability for any damage caused by his or her refusal to be involved in the performance
22 of, assistance in, recommendation of, counseling in favor of, making referrals for,
23 prescribing, dispensing or administering drugs for, or otherwise promoting,
24 encouraging, or aiding any of the following, if the refusal is based on religious or
25 moral precepts:

1 (a) A sterilization procedure.

2 (b) A procedure involving a drug or device that may prevent the implantation
3 of a fertilized human ovum.

4 (c) An abortion, as defined in s. 253.10 (2) (a).

5 (d) An experiment or medical procedure involving any of the following:

6 1. The destruction of a human embryo.

7 2. A human embryo or unborn child, at any stage of development, in which the
8 experiment or procedure is not related to the beneficial treatment of the human
9 embryo or unborn child.

10 (e) A procedure, including a transplant procedure, that uses fetal tissue or
11 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or
12 miscarriage.

13 (f) The withholding or withdrawal of nutrition or hydration, if the withholding
14 or withdrawal of nutrition or hydration would result in the patient's death from
15 malnutrition or dehydration, or complications of malnutrition or dehydration, rather
16 than from the underlying terminal illness or injury, unless the administration of
17 nutrition or hydration is medically contraindicated.

18 (g) An act that intentionally causes or assists in causing the death of an
19 individual, such as by assisted suicide, euthanasia, or mercy killing.

20 (3) (a) A person licensed as a pharmacist under this chapter who, in writing,
21 refuses, or states an intention to refuse, on moral or religious grounds to engage in
22 a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (g) shall
23 not be required to engage in the practice with respect to the activity and may not be
24 disciplined by the board or department for refusing or stating an intention to refuse
25 to engage in the practice with respect to the activity.

1 (b) A person who is adversely affected by, or who reasonably may be expected
2 to be adversely affected by, conduct that is in violation of par. (a) may bring a civil
3 action for injunctive relief, including reinstatement, damages, including damages
4 for emotional or psychological distress, or both injunctive relief and damages. In an
5 action under this paragraph, the court shall award reasonable attorney fees,
6 notwithstanding s. 814.04 (1), to a person who obtains injunctive relief, an award of
7 damages, or both.”.

8 **5.** Page 1399, line 20: after that line insert:

9 “(17f) REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of section
10 253.09 (title), (1), (1g), (2), (3), (4) (a) and (b) 1. and 2., and (5) and the creation of
11 section 253.09 (1r) (a) 1. to 7. of the statutes first applies to refusals or statements
12 of an intention to refuse that are made on the effective date of this subsection.

13 (18f) DECLARATIONS TO PHYSICIANS. The treatment of section 154.03 (1) (intro.)
14 of the statutes first applies to notifications of the existence of a declaration that occur
15 on the effective date of this subsection.

16 (19f) POWER OF ATTORNEY FOR HEALTH CARE. The treatment of section 155.60 (3)
17 of the statutes first applies to instruments or statements reviewed on the effective
18 date of this subsection.”.

19 **6.** Page 1403, line 5: after that line insert:

20 “(3f) REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of sections
21 441.06 (title), (6) (a) and (b) 1. to 7., (7), and (8), 448.03 (5) (title), (a), (ag), (am), and
22 (ao), and 450.135, the renumbering and amendment of section 441.06 (6), and the
23 creation of section 448.03 (5) (ar) 1. to 7. of the statutes first applies to refusals or

1 statements of an intention to refuse that are made on the effective date of this
2 subsection.”.

3 **7.** Page 1413, line 3: after that line insert:

4 “(6f) REFUSAL TO PARTICIPATE IN CERTAIN PROCEDURES. The treatment of section
5 111.337 (1), (1g), and (1r) (b) of the statutes first applies to refusals or statements of
6 an intention to refuse that are made on the effective date of this subsection.”.

7 (END)