



**SENATE AMENDMENT 4,
TO 2005 ASSEMBLY BILL 207**

September 27, 2005 – Offered by Senators ERPENBACH, ROBSON, RISSER, CARPENTER and TAYLOR.

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

2 **1.** Page 1, line 7: delete the material beginning with “exemption” and ending
3 with “who” on line 9 and substitute “the right of health care professionals and health
4 care facility employees to”.

5 **2.** Page 5, line 23: delete lines 23 and 24 and substitute:

6 **“253.09 (title) ~~Abortion refused; no~~ Refusal to participate in certain**
7 **practices; liability; no and discrimination restrictions.”.**

8 **3.** Page 6, line 20: delete the material beginning with “an activity” and ending
9 with “grounds” on line 21 and substitute “a sterilization procedure or the removal of
10 a human embryo or fetus”.

11 **4.** Page 8, line 13: delete lines 13 to 15 and substitute “253.09 (2) ~~No hospital~~
12 ~~or employee of any hospital shall be liable for any civil damages resulting from a A~~

1 health care facility is immune from liability for any damage caused by the health care
2 facility's refusal to perform sterilization procedures or".

3 **5.** Page 10, line 10: delete lines 10 to 20 and substitute:

4 **"441.06 (title) Licensure; refusals to participate in certain practices;**
5 **civil liability exemption.**

6 **SECTION 16m.** 441.06 (7m) (a) of the statutes is created to read:

7 441.06 (7m) (a) In this subsection:".

8 **6.** Page 11, line 7: delete the material beginning with that line and ending with
9 page 15, line 10, as affected by assembly amendment 1, and substitute:

10 **"SECTION 19c.** 441.06 (7m) (b) of the statutes is created to read:

11 441.06 (7m) (b) A person licensed as a registered nurse under this section or
12 as a practical nurse under s. 441.10 who, in writing, refuses, or states an intention
13 to refuse, on moral or religious grounds to participate in a practice of practical or
14 professional nursing that is related to any of the following may not be required to
15 participate in the practice:

16 1. A sterilization procedure.

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

18 3. An experiment or medical procedure that destroys an in vitro human embryo
19 or uses cells or tissue derived from the destruction of an in vitro human embryo.

20 4. An experiment or medical procedure on an in vitro human embryo that is not
21 related to the beneficial treatment of the in vitro human embryo.

22 5. An experiment or medical procedure on a developing child in an artificial
23 womb, at any stage of development, that is not related to the beneficial treatment of
24 the developing child.

1 6. 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 7. Intentionally causing the death of an individual who is not in a terminal
5 condition, as defined in s. 154.01 (8), by withholding or withdrawing nutrition or
6 hydration.

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

9 **SECTION 19g.** 441.06 (7m) (bm) of the statutes is created to read:

10 441.06 **(7m)** (bm) Nothing in par. (b) authorizes a person licensed as a
11 registered nurse under this section or as a practical nurse under s. 441.10 to withhold
12 or conceal a patient health care record in violation of s. 146.83 (4) (b) or prohibits the
13 board or department from disciplining a person who violates s. 146.83 (4) (b).

14 **SECTION 19n.** 441.06 (7m) (c) of the statutes is created to read:

15 441.06 **(7m)** (c) 1. In this paragraph, “damages” do not include noneconomic
16 damages, as defined in s. 893.55 (4) (a).

17 2. Except for claims that are subject to s. 111.321 or 111.322, a person who is
18 adversely affected by conduct that is in violation of par. (b) may bring a civil action
19 for equitable relief, including reinstatement, or damages, or both. An action under
20 this subdivision may be commenced against the state and any office, department,
21 independent agency, authority, institution, association, society, or other body in state
22 government created or authorized to be created by the constitution or any law,
23 including the legislature and the courts. In an action under this subdivision, the
24 court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person

1 who obtains equitable relief, damages, or both. An action under this subdivision
2 shall be commenced within one year after the cause of action accrues or be barred.

3 **SECTION 26m.** 448.03 (5m) of the statutes is created to read:

4 448.03 (5m) REFUSALS TO PARTICIPATE IN CERTAIN PRACTICES; ACTION FOR DAMAGES.

5 (a) In this subsection:

6 1. “Human embryo” means a human organism that is derived by fertilization,
7 parthenogenesis, cloning, or any other means from one or more human gametes or
8 human diploid cells. “Human embryo” includes a zygote but does not include a
9 human organism at or beyond the stage of development at which the major body
10 structures are present.

11 2. “In vitro human embryo” means a human embryo, whether cryopreserved
12 or not, living outside of a woman’s body.

13 3. “Participate in” means to perform; practice; engage in; assist in; recommend;
14 counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or
15 devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or
16 otherwise promote or encourage.

17 (b) A person licensed or certified under this subchapter who, in writing, refuses,
18 or states an intention to refuse, on moral or religious grounds to participate in a
19 practice within the scope of his or her license or certification that is related to any
20 of the following activities may not be required to participate in the practice with
21 respect to the activity:

22 1. A sterilization procedure.

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

24 3. An experiment or medical procedure that destroys an in vitro human embryo
25 or uses cells or tissue derived from the destruction of an in vitro human embryo.

1 4. An experiment or medical procedure on an in vitro human embryo that is not
2 related to the beneficial treatment of the in vitro human embryo.

3 5. An experiment or medical procedure on a developing child in an artificial
4 womb, at any stage of development, that is not related to the beneficial treatment of
5 the developing child.

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

9 7. Intentionally causing the death of an individual who is not in a terminal
10 condition, as defined in s. 154.01 (8), by withholding or withdrawing nutrition or
11 hydration.

12 8. An act that intentionally causes or assists in causing the death of an
13 individual by assisted suicide, euthanasia, or mercy killing.

14 (bm) Nothing in par. (b) authorizes a person licensed or certified under this
15 subchapter to withhold or conceal a patient health care record in violation of s. 146.83
16 (4) (b).

17 (c) 1. In this paragraph, "damages" do not include noneconomic damages, as
18 defined in s. 893.55 (4) (a).

19 2. Except for claims that are subject to s. 111.321 or 111.322, a person who is
20 adversely affected by conduct that is in violation of par. (b) may bring a civil action
21 for equitable relief, including reinstatement, or damages, or both. An action under
22 this subdivision may be commenced against the state and any office, department,
23 independent agency, authority, institution, association, society, or other body in state
24 government created or authorized to be created by the constitution or any law,
25 including the legislature and the courts. In an action under this subdivision, the

1 court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person
2 who obtains equitable relief, damages, or both. An action under this subdivision
3 shall be commenced within one year after the cause of action accrues or be barred.”.

4 **7.** Page 16, line 1: delete lines 1 to 3 and substitute:

5 “**(2m)** A person licensed as a pharmacist under this chapter who, in writing,
6 refuses, or states an intention to refuse, on moral or religious grounds to participate
7 in a practice of pharmacy that is related to any of the following activities may not be
8 required to participate in the practice with respect to the activity:”.

9 **8.** Page 16, line 22: delete the material beginning with that line and ending
10 with page 17, line 14, as affected by assembly amendment 1, and substitute:

11 “**(2r)** Nothing in sub. (2m) authorizes a person licensed as a pharmacist under
12 this chapter to withhold or conceal a patient health care record in violation of s.
13 146.83 (4) (b).

14 **(3m)** (a) In this subsection, “damages” do not include noneconomic damages,
15 as defined in s. 893.55 (4) (a).

16 (b) Except for claims that are subject to s. 111.321 or 111.322, a person who is
17 adversely affected by conduct that is in violation of sub. (2m) may bring a civil action
18 for equitable relief, including reinstatement, or damages, or both. An action under
19 this paragraph may be commenced against the state and any office, department,
20 independent agency, authority, institution, association, society, or other body in state
21 government created or authorized to be created by the constitution or any law,
22 including the legislature and the courts. In an action under this paragraph, the court
23 shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who

1 obtains equitable relief, damages, or both. An action under this paragraph shall be
2 commenced within one year after the cause of action accrues or be barred.”.

3 **9.** Page 17, line 17: delete the material beginning with “(7),” and ending with
4 “8.” on line 20 and substitute “(7m) (a), (b), (bm), and (c), 448.03 (5m), and 450.135”.

5 (END)