

## Oppose S.811 - The South Carolina Healthcare Denial Act

S.811 would allow any medical practitioner, health care institution, or health care provider – broadly defined – to refuse to do anything they object to on the basis of “conscience,” including providing referrals or even urgently needed information to patients. Medical providers, assistants, and staff could refuse to schedule appointments and procedures or process insurance paperwork if they had objections to the procedures involved or to the patients receiving care. Insurance companies and employers could refuse to cover treatment and services. It would also authorize healthcare institutions, including clinics, hospitals, and nursing homes, to refuse to provide any care to which the institution objects. Providers could not lose their license or be disciplined by medical boards, no matter how bad their conduct, so long as they claimed to be motivated by their “conscience.” And it would shield practitioners, institutions, and providers from civil, criminal, or administrative liability from any harm to patients that results from any refusal of care – no matter how egregious the harm.

**Provides extreme religious exemptions under the guise of “conscience.”** Just one state (Arkansas<sup>1</sup>) has enacted a law that would allow healthcare providers and institutions to refuse to provide *any* care to any patient, subject only to limited federal rules regarding emergency stabilization and transfer. While the majority of states, including South Carolina, have rules allowing providers to decline to provide abortion care, S.811 sweeps much more broadly and reaches literally any kind of care that someone might object to on moral or religious grounds. That’s why medical professional organizations all oppose sweeping exemptions like S.811 (see [here](#), [here](#), [here](#), and [here](#)): The bill would permit providers to refuse care without balancing the needs of patients.<sup>2</sup>

**Gives medical providers, institutions, and practitioners blanket immunity from the law.** This bill allows healthcare providers to refuse even to discuss a patient’s diagnosis or to refer the patient to someone who will treat them. This license to discriminate will be felt more severely in rural areas where patients have a limited choice of medical providers. This legislation would also create extraordinary staffing challenges during a global pandemic because employers would have to accommodate any refusals of care and could not take any steps to adjust work obligations or assignments in response to a refusal to do the basic duties of an employee’s job. Individuals who are dismissed for ignoring the essential functions of their job could use S.811 to challenge their dismissal. Since moral beliefs are subjective, employers will be unable to legally distinguish those with genuinely held belief from those using bad policy to avoid having to work. Finally, S.811 could expose healthcare institutions to liability under federal laws prohibiting discrimination in healthcare and public accommodations because their staff would be allowed to discriminate in the provision of care.

**Gives people and institutions blanket immunity from the law harms others.** The broad exemptions would allow people and institutions to engage in behavior that harms others with total impunity. For example:

- A nurse could refuse to assist in providing chemo to a child with cancer because the child’s parents are a lesbian couple.

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<sup>1</sup> Ark. Senate Bill 289 (2021).

<sup>2</sup> See, e.g., American Medical Association, AMA Principles of Medical Ethics, <https://www.ama-assn.org/about/publications-newsletters/ama-principles-medical-ethics>; American Medical Association, AMA Physician Exercise of Conscience, Code of Medical Ethics Opinion 1.1.7, <https://www.ama-assn.org/delivering-care/ethics/physician-exercise-conscience> ; American College of Physicians Ethics Manual (7th ed.), Annals of Internal Med. (2019), <https://www.acpjournals.org/doi/10.7326/m18-2160>; American Nurses Association, Code of Ethics for Nurses With Interpretive Statements (2015) <https://www.nursingworld.org/coe-view-only>; American Academy of Physician Assistants, Guidelines for Ethical Conduct for the Physician Assistant Profession (as amended in 2018), <https://www.aapa.org/download/56983/>.

- A pharmacist could refuse to administer COVID-19 vaccines because they are morally or ethically opposed to vaccination.
- A doctor could refuse to examine a patient wearing a t-shirt promoting a particular political candidate because it would violate the doctor's "moral, ethical, or philosophical beliefs."

**South Carolina and federal law already provide strong protections for religious exercise.** Current South Carolina law already protects religious freedom. For example, the [South Carolina Religious Freedom Act](#) provides that the "State may not substantially burden a person's exercise of religion" unless the government can meet a very high legal standard.<sup>3</sup> [Federal law](#) also requires employers to accommodate the religious exercise of their employees unless it would cause an undue hardship.<sup>4</sup> These reasonable standards appropriately balance the needs of hospitals, nursing homes, and other care providers to run their operation and provide quality care, with the religious beliefs and practices of a diverse workforce. In addition, South Carolina law also already allows medical providers to decline to provide abortion care.<sup>5</sup> This legislation is unnecessary.

**Oppose S.811 - Do not grant medical providers, institutions, and practitioners a "license to discriminate" card for nearly any violation of any law at any time.**

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<sup>3</sup> SC Code § 1-32-40 (2013).

<sup>4</sup> Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e.

<sup>5</sup> S.C. Code Ann. §§ 44-41-40, 50.