

# Legislative Analysis

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## HEALTH SERVICES: ALLOW CONSCIENTIOUS OBJECTION

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### House Bill 5006

Sponsor: Rep. Randy Richardville

### House Bill 5276

Sponsor: Rep. John Gleason

### House Bills 5277 and 5278

Sponsor: Rep. Scott Hummel

Committee: Health Policy

Complete to 3-19-04

## A SUMMARY OF HOUSE BILL 5006 AS INTRODUCED 7-17-03 AND HOUSE BILLS 5276-5278 AS INTRODUCED 11-6-04

As a package, the bills would allow, under certain conditions, a health care provider or health facility to refuse to provide or participate in a health care service and allow health insurers, health maintenance organizations, and Blue Cross Blue Shield of Michigan to refuse to offer or provide a health care benefit.

House Bill 5006 would create the Conscientious Objector Policy Act to allow a health care provider to assert, as a matter of conscience, an objection to providing or participating in a health care service that conflicted with his or her sincerely held religious or moral beliefs. The bill would:

- Provide a procedure for notifying an employer of a conscientious objection.
- Prohibit an employer from refusing employment or staff privileges to a provider who asserted an objection to providing or participating in a health service.
- Prohibit a medical school from denying admission to a person who filed a conscientious objection.
- Specify that a provider's objection could not be the basis for civil liability, criminal action, administrative or licensure action, or termination of employment or refusal of staff privileges at a health facility, or an involuntary change in terms or conditions of employment or disciplinary action.
- Provide a number of circumstances under which the protections afforded under the bill to a provider would not apply.
- Allow a provider to bring a civil action, including a petition for injunctive relief, if he or she was penalized or suffered discrimination for asserting a conscientious objection to providing or participating in a health service.
- Make a violation of the bill a state civil infraction and establish penalties.

House Bill 5276 would create a new act to exempt a “health facility” from providing or participating in a health care service that violated an ethical, moral, or religious principle reflected in its articles of incorporation, bylaws, or an adopted mission statement. A facility asserting an allowable conscientious objection would be required to provide notice of its objection through written public notice or personally in writing at the time an individual sought to obtain that service from the facility.

A facility could not assert such an objection to a service if the facility routinely provided or participated in the service and the objection was based on a disagreement with a member of a health profession employed by, under contract to, or granted privileges by the facility regarding the medical appropriateness of a service for a specific patient if the patient had already consented to the provision of the service. Nor could an objection “exclude an entire health profession.” A facility’s objection to providing or participating in a health care service could not be a basis for either of the following: civil, criminal, or administrative liability; or, with one stated exception, eligibility discrimination against the facility in a grant, contract, or program.

“Health facility” would mean a health facility or agency as defined in the Public Health Code, a private physician office, or a public or private institution, teaching institution, pharmacy, corporation, partnership, or sole proprietorship that provided a health care service to an individual. “Health care service” would mean the provision or withdrawal of, or research or experimentation involving, a medical treatment, procedure, device, medication, drug, or other substance intended to affect the physical or mental condition of an individual. “Participating in” a service would include counseling, referring, performing, administering, prescribing, dispensing, treating, withholding, withdrawing, diagnosing, testing, evaluating, training, researching, preparing, or providing material or physical assistance in a health care service.

House Bills 5277 and 5278 would allow a health insurer, notwithstanding any other provision of law, to refuse to offer or provide a health care benefit that violated an ethical, moral, or religious principle in its articles of incorporation or bylaws or an adopted mission statement. This would not apply to a health care benefit if the benefit was specifically covered under the certificate, contract, or policy. Further, the refusal to offer or provide a health care benefit could not be a basis for one or more of the following: civil, criminal, or administrative liability; or, with one stated exception, eligibility discrimination against the health care corporation in providing a certificate.

House Bill 5277 would add a new section to the Nonprofit Health Care Corporation Reform Act (MCL 550.409a), which regulates Blue Cross Blue Shield of Michigan. House Bill 5278 would add a new section to the Insurance Code (MCL 500.3406r) to apply to health maintenance organizations (HMOs) and commercial insurers.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.