



# The Healthcare Professional's

Guide to Conscience Rights



ALLIANCE DEFENDING  
FREEDOM

# Introduction

**As a medical professional,** you have the freedom to conduct your work in a manner consistent with your beliefs.

Your conscience plays a vital role in your thoughts and actions, and it guides your ethical approach to the way you treat those entrusted to your care.

It also protects the ability of patients to access healthcare that unconditionally respects human life and those who wish to live by their faith and by the guiding principles of the Hippocratic Oath.

However, freedom of conscience has faced repeated attacks in recent years. Maybe you've read the stories or even experienced these threats firsthand.

As cultural trends shift, government officials have tried to compel medical professionals to participate in controversial or conscience-violating practices, such as assisted suicide, abortion, or gender-transition drugs and surgeries.

But the government cannot force you to act against your faith or ethics.

**And the good news is: you are not alone in the stand for your beliefs.**

Just as you have the God-given right to carry out your work with a reverence for human life, procreation, and the image of God, there are many patients who want to choose a medical professional who shares these guiding values.

That's why Alliance Defending Freedom created *The Healthcare Professional's Guide to Conscience Rights*. With this guide, you will learn...

- What conscience rights are, and why they matter
- What ethical challenges you may face as a medical professional in today's culture, and what protections exist for your conscience rights
- How you can stand up for your conscience rights—and what ADF can do to help you

Ultimately, we hope this guide empowers you to hold fast to your conscience and protect all human life in your work.



## Table of Contents



### Freedom of conscience in healthcare | [Page 4](#)

- [What is freedom of conscience?](#)
- [Does freedom of conscience impose beliefs on patients?](#)
- [How do I defend my freedom of conscience?](#)
- [What can I do to strengthen freedom of conscience?](#)



### Laws protecting the right of conscience | [Page 6](#)

- [What federal laws protect the right of conscience?](#)
  1. [The Church Amendment](#)
  2. [The Coats-Snowe Amendment](#)
  3. [The Weldon Amendment](#)
  4. [The Religious Freedom Restoration Act \(RFRA\)](#)
  5. [The Free Exercise Clause](#)
  6. [Employment Anti-Discrimination Protections](#)
- [What state laws protect the freedom of conscience?](#)
  1. [State Pro-Life Conscience Laws](#)
  2. [State General Medical Conscience Laws](#)
  3. [State RFRAs and Free Exercise Clauses](#)
  4. [State Employment Anti-Discrimination Laws](#)
  5. [Does the Constitution protect my healthcare conscience freedom?](#)
  6. [Does the Constitution protect my freedom of conscience?](#)



### Objections to specific medical services | [Page 11](#)

- [Should professionals be required to provide every service that is “legal”?](#)
- [Is pro-life healthcare a substandard way to practice medicine?](#)
- [Do I have a right not to perform or assist with abortions?](#)
- [Do I have a right not to assist, aid, or refer patients for abortions, or for other activities that I object to performing?](#)
- [Do I have a right not to participate in assisted suicides?](#)
- [Do I have a right not to provide birth control or sterilization?](#)
- [Do I have a right to refuse to provide gender-transition drugs and surgeries?](#)
- [Do I have the right to refuse to participate in capital punishment?](#)



### Legal protections for different medical fields | [Page 19](#)

- [Are medical students, residents, and applicants protected by conscience laws?](#)
- [Are pharmacists protected by conscience laws?](#)
- [Do counselors and social workers have a right to practice consistently with their beliefs?](#)
- [Do military medical personnel have conscience rights?](#)



### Conclusion | [Page 23](#)



# Freedom of Conscience in Healthcare

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## What is freedom of conscience?

Freedom of conscience means you are free to carry out your moral duty without fear of government coercion or punishment.

As a result, you are free to live a life of integrity, where moral duties guide your whole life—including your profession—and not just those times when you are at church or in prayer.

**Your work is a calling**, and it is a sacred one. For millennia, healthcare personnel and institutions have adhered to a duty to “do no harm,” a duty to heal rather than to maim or kill. This obligation is affirmed by the Hippocratic Oath, which many still profess.

Your freedom of conscience also protects your patients, promoting choice and autonomy. For example, many women want to choose a doctor who treats all unborn children as patients, not blobs of tissue. Many cancer patients want a doctor who would never consider helping a patient end her life as a “treatment option.” Many counseling clients seek help from a professional who shares their views and values on core issues, like gender and sexuality, and will counsel them in line with those beliefs.

Some opponents of freedom of conscience claim that these rights deny patients access to healthcare. In reality, the opposite is true. Conscience rights *enable* patient choice, because they allow patients to choose a healthcare professional who shares their beliefs and values.

## Does freedom of conscience impose beliefs on patients?

No. In fact, it is those who oppose freedom of conscience who seek to impose their views.

These opponents often force health professionals and institutions to participate in activities that violate their healing mission, such as requiring them to perform or assist with abortions. In some cases, healthcare professionals who insist on following their conscience are wrongfully forced out of their professions. As a result, millions of patients lose the ability to choose doctors, counselors, and health institutions that share their pro-life and religious values.

Life-affirming health professionals also often work in communities that have healthcare shortages. Attacks on freedom of conscience only serve to exacerbate those shortages by driving Christian and pro-life personnel from the health profession.

## How do I defend my freedom of conscience if those rights are challenged?

It can vary depending on which federal or state laws apply to your particular circumstance. Knowing your rights makes it possible for you to explore your options. In general, defending your

conscience rights might include activities such as:

- Discussing your conflict with your employer or the regulating entity to resolve the issue, as appropriate.
- Sending a letter asking formally that your rights be respected, in consultation with legal counsel.
- Seeking to defend your legal rights in court. Some laws expressly allow this avenue, some do so implicitly, and some are unclear whether your freedom of conscience can be enforced in court.
- Utilizing a complaint procedure that allows you to file with a government body tasked with enforcing conscience laws.

We encourage you to talk with an attorney, such as those at Alliance Defending Freedom, who can help you identify what rights are applicable to your specific situation.

## What can I do to expand or strengthen freedom of conscience?

There are a variety of ways to advocate for your conscience rights in your community, state, and across the nation:

- Call, write, and visit your representatives in Congress. Tell them how important the right of conscience is to you and your patients. Urge them to co-sponsor a bill that would strengthen conscience rights. Don't know your representatives? Find out at [www.usa.gov/elected-officials](http://www.usa.gov/elected-officials).
- Contact your state senators and house or assembly member to discuss the importance of conscience rights in your state, and find out what protections already exist. If your state laws do not include a specific “right to sue,” talk about it with your state representative. You can also find out who the elected officials are in your state at the link above.
- Speak out! Your voice is critical in this fight for conscience rights. Medical professionals must share their stories about their stand for their values—your courage is contagious and can have a greater impact than you may know.





# Laws Protecting the Right of Conscience

## What federal laws protect the right of conscience?

The Constitution, federal laws and regulations, and state laws all function in different ways to protect medical professionals' rights.

When the Supreme Court imposed abortion on the nation in *Roe v. Wade* and its companion case *Doe v. Bolton*, the opinions nevertheless observed that the “right” the court was creating in no way required participation by any person or entity who objected to abortion, and that laws protecting conscience were entirely appropriate.<sup>1</sup> Consequently, the federal government and most states enacted a flurry of laws protecting freedom of conscience for healthcare workers. When the Court overturned *Roe* and *Bolton* in *Dobbs v. Jackson Women’s Health Organization*, it affirmed the importance of preserving the moral integrity of the medical profession.<sup>2</sup>

It is important to note that federal pro-life conscience laws (and most similar state laws) prohibit coercion even in so-called “emergencies.” They require full respect for the practice of pro-life medicine, which does not view the intentional killing of a patient as being a legitimate treatment in any circumstance. This is important because a government or employer wishing to require someone to participate in abortions will often claim that there is a very important and even a medical reason to prohibit pro-life personnel from opting out. Pro-life conscience laws unequivocally protect the freedom to practice Hippocratic medicine that unconditionally respects human life.

The Church, Coats-Snowe, and Weldon amendments are the most notable federal statutes to consider with regard to freedom of conscience. They are the main federal laws protecting healthcare workers from coerced participation in activities such as abortion. Other laws not addressed in this guide apply similar protections in much more specific contexts, such as Medicaid-managed care plans.

### 1. The Church Amendment

The Church Amendment to the Public Health Service Act<sup>3</sup> provides a wide range of protections to healthcare professionals, including doctors, nurses, midwives, and other personnel, as well as hospitals. It is one of the most important federal protections for medical personnel who object to performing abortions, sterilizations, and other procedures on the basis of religious beliefs or moral convictions.

Here are a few key components of the amendment:

- It only applies to entities that receive certain federal health-related funds.
- It prohibits entities from discriminating against healthcare personnel because they refuse to assist in the performance of an abortion or sterilization for religious or moral reasons. This may include protection for some gender-transition drugs and procedures to the extent they cause or risk causing sterilization.
- The language is framed broadly as a non-discrimination provision, which Congress has labeled as protecting “individual rights.”<sup>4</sup>

- It states that entities receiving *research* funds are not allowed to discriminate against healthcare personnel who object to performing or assisting with *any* lawful health service based on a person's religious beliefs or moral convictions, including birth control, assisted suicide, or other services.
- It protects individuals applying for internships or residencies from discrimination because they are reluctant to participate in abortions or sterilizations based on their religious beliefs or moral convictions.
- It provides that individuals in a program funded in whole or in part by the federal Health and Human Services Department (HHS) may not be required to perform or assist in any part of the program to which they have religious or moral objections.
- It states that if an individual or entity (such as a hospital) receives federal funding, the receipt of that federal money does not authorize governments, courts, or public officials to force those individuals or entities to perform or assist with abortions or sterilizations, or to make their facilities or personnel available for the same.
- Notably, it protects all individuals' rights when it comes to abortion. Whether someone chooses to perform abortions or not, they are protected from discrimination under this law.

*This is just a summary of the amendment; you can find the full text to the Church Amendment [here](#).*

## **2. The Coats-Snowe Amendment**

This law broadly protects any healthcare entity or individual physician from being forced to perform, refer for, or even make arrangements to refer for an abortion. The Coats-Snowe Amendment applies to any government entity—federal, state, or local—that receives any federal financial assistance.

Abortion activists sometimes pressure medical schools and residencies to train participants on abortion, but the Coats-Snowe Amendment prohibits governments from adopting such standards. As a result, the public education and licensing system cannot discriminate against pro-life medical professionals, schools, residency programs, and other entities.

Simply put, medical students and residents at government institutions cannot be required to be involved in abortions, and private medical institutions do not need to participate in abortion training or procedures.

*You can read the Coats-Snowe Amendment in full [here](#).*

## **3. The Weldon Amendment**

The Weldon Amendment has been a part of the appropriations acts passed by Congress every year since 2004. It prohibits federal agencies and programs, and state and local governments receiving certain federal funding, from discriminating against any healthcare entity, professional, or insurance plan due to their decision not to provide, pay for, provide coverage of, or refer for abortions.<sup>5</sup>

*You can find more information on the Weldon Amendment [here](#).*

Other important federal laws include:

## **4. The Religious Freedom Restoration Act (RFRA)**

Under the federal Religious Freedom Restoration Act (RFRA),<sup>6</sup> the federal government cannot require you to do things that substantially burden your religious exercise.

The only exception is what courts call a reason “of the highest order.” To show this, the government would have to prove (1) that enforcing such a burden would further a “compelling government interest,” and (2) that they cannot accomplish this goal in a way that does not burden your religious beliefs to a lesser extent.

RFRA may be especially important to health personnel working at federal health entities, or in defense against federal agencies that attempt to impose a requirement that violates individuals’ religious convictions.

RFRA has also been successfully used in some cases regarding the Affordable Care Act mandates involving religious objections to dispensing or paying for abortion drugs and for objections related to gender-transition drugs and procedures. But notably, this law only applies to actions of the federal government itself, as opposed to state or private entities. Some, but not all, states have similar laws or constitutional rules that operate against state government coercion.

## **5. The Free Exercise Clause**

The Free Exercise Clause of the First Amendment guarantees your right to practice your religion without government intrusion.

The Free Exercise Clause may also protect you if you can show the government singled out religious beliefs for penalty in a way that was not neutral to religion or that the government provides too many exemptions or exceptions to consider the law “generally applicable.”

However, because of the 1990 Supreme Court case *Employment Division v. Smith*, if the government can show that its law applies generally across the board, the Free Exercise Clause might not be a strong defense even if a law burdens your religious beliefs. This is why federal and state [RFRA](#)s are important to ensure the government must meet a higher standard whenever it forces you to violate your religious beliefs.

## **6. Employment Anti-Discrimination Protections**

Title VII of the federal Civil Rights Act of 1964 forbids discrimination in employment on the basis of religion. This means that an employer with 15 or more full-time employees cannot fire, discipline, or discriminate against you simply because of your religious beliefs.

Please note that Title VII does not automatically justify any religious objection to job conditions or requirements. Generally, Title VII requires that employers reasonably accommodate your religious beliefs, but if the accommodation unduly burdens the employer, it might not be required. This determination is necessarily dependent on the facts of your case and the burden to your particular employer in accommodating your beliefs. So, we recommend seeking legal advice to help you in crafting your accommodation request. We have seen employers respond favorably to requests not to participate in abortion, prescribe puberty blockers or cross-sex hormones, or to participate in masculinizing and feminizing surgeries.

Alliance Defending Freedom attorneys are currently representing a pharmacist in Minnesota who was sued because he objected to dispensing a drug that could cause an abortion in violation of his religious beliefs. George Badeaux referred the request to another pharmacist, but the woman who requested the drug was determined to sue him. ADF is defending George’s right to conduct his work in a manner consistent with his conscience.

*Learn more about George’s case [here](#).*

## What state laws protect the freedom of conscience?

Several states have enacted laws protecting the freedom of conscience, which we will cover here. However, we recommend that you research exactly what laws are in place in your specific state, or contact us for assistance.

### 1. State Pro-Life Conscience Laws

After *Roe v. Wade*, many states passed their own versions of conscience clauses such as the ones found in parts of the Church Amendment. These are important, because while the Church Amendment only applies to entities receiving certain federal health funds, state conscience laws tend to apply more broadly.

Generally, these laws protect health personnel and institutions from penalties and liability because they object to being involved with abortions. They usually protect objections not only to performing abortions but also to assisting or participating in abortion in other ways. Some, but not all, of the laws also apply to objections to sterilization and other medical procedures. Many of the laws ban not only government discrimination but also discrimination imposed by private employers, like hospitals.

### 2. State General Medical Conscience Laws

Multiple states have adopted more general laws protecting medical professionals from participating in any medical interventions that violate their conscience. These laws typically protect professionals from any form of retaliation—everything from being fired to losing hospital privileges to being disqualified by a health insurer—for exercising their conscience rights. And they typically give medical professionals a right to sue if their conscience rights are violated. Generally speaking, these laws provide more protection for medical conscience rights than the other state laws addressed.

### 3. State RFRA and Free Exercise Clauses

After the federal government passed the federal [RFRA](#) in 1993, a little more than half of the states went on to enact similar laws providing conscience protections to state entities, either by a state RFRA statute or a state constitutional clause. These laws protect the exercise of religion by prohibiting the state or local government from burdening your religious beliefs unless it serves an extremely important interest in the least restrictive way. Importantly, not all states have these laws, and they generally do not apply to private employers.

### 4. State Employment Anti-Discrimination Laws

Like Title VII of the federal Civil Rights Act, most states and some counties or cities have their own laws banning employment discrimination based on religion and requiring reasonable accommodations for religious objections.

Depending on their wording and judicial interpretations, these laws might apply more broadly than Title VII, such as by applying to smaller companies, or by requiring somewhat more significant levels of accommodation of religious beliefs. In other words, they might not let an employer off quite as easily if it claims accommodating your religion would have been too much of a burden on the business. But in general, businesses are given a significant amount of leeway to claim that religious accommodations would be too burdensome, so that issue can be a significant matter of dispute in court.

If this situation ever arises, it can be helpful for you to have specific examples of how the business has accommodated employees in situations similar to yours, but still refuses to respect your religious objection.

## **5. Does the Constitution protect my freedom of conscience?**

Yes, but not in every specific case. Unfortunately, courts often do not protect your constitutional conscience freedoms as diligently as they should. Additionally, constitutional rights generally only protect you from government coercion, not from penalties imposed by your boss if you work at a private entity. If you are the victim of discrimination from a private entity, there may be conscience protections through various statutes that would protect you, since the Constitution does not generally protect you against private institutions.

A disappointing number of courts have also ruled that the government can pass laws that generally apply to coerce everyone, and that you as a religious believer might not be able to succeed in calling it a violation of your constitutional religious freedom.

It is for this reason that additional conscience laws, like the ones highlighted previously, are a helpful way to recognize and guard the constitutional and cultural principle of freedom of conscience.

## **6. Does the Affordable Care Act eliminate the protections of conscience laws?**

The Affordable Care Act does not claim to contradict any existing healthcare conscience protections, such as laws protecting people from being required to assist with abortions. There was controversy surrounding the law when it was passed in 2010 because it did not explicitly declare that the Affordable Care Act was subject to those conscience laws. But some provisions of the Affordable Care Act explicitly protect conscience rights. For example, section 1553 of the act prohibits discrimination against individuals or institutional healthcare entities that do not provide help for assisted suicides. However, such provisions have not eliminated the uncertainty as to the impact of the Affordable Care Act on conscience laws.

The Obama and Biden administrations issued regulations that whittled away conscience protections and attempted to force healthcare providers to participate in controversial procedures like gender-transition drugs and surgeries. There is ongoing litigation concerning those topics. But the enactment of the Affordable Care Act does not mean healthcare conscience laws no longer exist or are without import. They can—and should—still be used in the effort to protect freedom of conscience.



# Objections to Specific Medical Services

## Should health professionals be required to provide every service that is “legal”?

Many opponents of conscience rights assert that health professionals should offer every “legal” service. But life-affirming healthcare is itself legal, having been protected by a vast array of laws and constitutional rights for many years. Yet the anti-conscience movement wants to limit or even prohibit such care in certain instances. It has no respect for the legality of conscience, only for the demanded legality of killing activities such as abortion.

Consider the case of [Chelsea Mynyk](#), a nurse practitioner and certified nurse midwife in Colorado. She provides care to patients in line with her belief that all life is created by God and worthy of protection—including offering patients the life-saving option of abortion pill reversal (APR). But the state of Colorado bans medical professionals from providing or even advertising APR. So when Chelsea provided APR to a woman who wished to save the life of her unborn baby, the state nursing board opened an investigation into Chelsea.

The ability of patients to choose healthcare that follows the Hippocratic Oath has been not only “legal” but it has been the standard health philosophy for millennia. Patients should have the option to seek care from health professionals who affirm life, marriage, and fertility. Maintaining and strengthening healthcare conscience laws are vital steps in protecting such freedom.



**To speak to an attorney who can assess your specific situation and provide guidance, contact us at 800-835-5233 or [adfflegal.org/request-legal-help](https://adfflegal.org/request-legal-help).**

## Is pro-life healthcare a substandard way to practice medicine?

In no way! Pro-life medicine is the positive practice of healthcare that unconditionally values human life—the lives of mothers, children in the womb, persons facing life-threatening conditions, and others. It is not simply medicine minus abortion. Medicine following the Hippocratic Oath is a longstanding and ethics-based model of practicing medicine.

Opponents of the freedom of conscience fail to recognize—or to acknowledge—that their approach to healthcare functionally eliminates the Oath’s protection for millions, in the process stripping away freedom of conscience for professionals and patients alike. Such a system would represent an enormous step backwards for healthcare.



### *Bella Health and Wellness v. Weiser*

Nurse Chelsea Mynyk prescribed progesterone, the naturally occurring hormone used in abortion pill reversal (APR), to Mackenna Greene, a young woman who regretted her decision to take an abortion drug. After receiving the life-saving care provided by Chelsea, Mackenna now has a healthy baby girl! But the state nursing board targeted Chelsea for helping Mackenna, due to a Colorado law that forbids Chelsea from even offering the option of APR. Here's how ADF is pushing [back](#).

## Do I have a right not to perform or assist with abortions?

Yes, you have the right not to perform or assist with abortions.

When it was still good law, *Roe v. Wade* itself acknowledged the legitimacy of objecting to participation in abortion. After *Roe v. Wade*, the federal government and most states enacted laws that explicitly protect health professionals from being required to participate in abortions and even in some other activities such as sterilizations. The application of such laws varies by situation and employer, and the laws have different enforcement mechanisms. Other laws, like those protecting religious freedom and restricting religious employment discrimination, can provide additional protections that prevent the government from requiring assistance in abortion.

To read more about the specific federal and state laws that protect this right, see [section 2](#).



**We encourage you to call someone on our legal team for guidance with your specific situation at 800-835-5233 or contact us online at [adfflegal.org/request-legal-help](https://adfflegal.org/request-legal-help).**

## Do I have a right not to assist, aid, or refer patients for abortions, or for other activities that I object to performing?

Yes, depending on the activity.

Laws that protect against performing abortions often specify that they protect against other kinds of participation, such as assistance, facilitation, or referral for abortions. For example, multiple federal laws declare you cannot be penalized for refusing to perform, assist, or refer for abortions. Fortunately, pro-life conscience laws apply to healthcare personnel generally, not just physicians.

[In Illinois, the National Institute of Family and Life Advocates—represented by ADF—prevailed in the fight against a law that would force pregnancy centers, medical facilities, and physicians to talk to patients about the “benefits” of abortion, regardless of their moral objections.](#)

Additionally, depending on the circumstances and where you're located, there are sometimes federal or state conscience protections for interventions unrelated to abortion, like gender-transition drugs and surgeries.

We understand that health professionals in various situations might have differing views on referring a patient to another provider for an activity they will not provide themselves. The extent to which laws protect your right not to refer for an abortion—or other objectionable service—depend on a variety of factors, including what activity you object to, what participation you are being asked to engage in, and what other facts apply to your particular situation.

## Do I have a right not to participate in assisted suicides?

Yes, though this area of law is still developing.

First, the possibility of being asked to participate in assisted suicide likely would occur only in the few states that have legalized it. Each state statute legalizing assisted suicide varies in the clarity of its language, but some explicitly state that health professionals and entities have the right to decline

participation. However, while some have interpreted such laws as protecting persons who wish not to participate, other interpretations argue physicians may need to take such actions as informing patients of assisted-suicide options and referring them to a doctor who will provide it.

At the federal level, section 1553 of the Affordable Care Act prohibits the federal government or any state or local government or healthcare provider that receives federal financial assistance under the Affordable Care Act from discriminating against individuals or institutional healthcare entities on the basis that they do “not provide any healthcare item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.” Additionally, religious freedom laws could protect you against government requirements to be involved in assisted suicide, depending on which laws apply in a particular situation.

In 2023, Alliance Defending Freedom won a lawsuit on behalf of the Christian Medical & Dental Associations, which challenged a California law that forced doctors to participate in physician-assisted suicide. ADF challenged a similar law in New Mexico and saw a critical victory for conscience rights when the state legislature passed a bill protecting the rights of healthcare professionals who object to the practice of assisted suicide.



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## **Do I have a right not to provide birth control or sterilization?**

In some cases, yes, but maybe not in others.

Many, but not all, laws that protect objections to abortions also specify that providing sterilizations cannot be required for health personnel or groups, though not as many laws specify birth control as something to which persons may object. Unfortunately, the legal standard is unclear whether laws protecting objections to abortion also apply to objections to specific drugs and devices that prevent or can kill an unborn baby.

This lack of clarity is likely a result of politically edited definitions. In the 1970s, when many pro-life conscience laws were enacted, both conception and pregnancy were defined by medical dictionaries as occurring when the sperm and ovum combine. Culturally, there was no need to make those definitions explicit in the law. Under that common understanding, a law protecting freedom of conscience not to assist in an abortion should protect against distribution of items destroying embryos in the earliest stages after conception.

In the years since, political pressure has resulted in confusion in this area. Court rulings often fail to resolve the question. At the federal level, certain regulations not explicitly connected with pro-life conscience laws define pregnancy as beginning at implantation of the embryo in the uterus rather than at the combination of sperm and ovum at conception. Some abortion advocates or courts might seek to use these regulations to deny that a pro-life conscience statute protects objections to abortifacient birth-control methods.



## *National Institute of Family and Life Advocates v. Treto*

Kathy Sparks Lesnoff leads Mosaic Health, a pregnancy center in Illinois. ADF represented the center in a seven-year legal battle against an Illinois law that forced medical professionals to talk to patients about the benefits of abortion. Thankfully, the federal district court permanently blocked the law, meaning Kathy and Mosaic Health—and medical professionals and facilities statewide—cannot be forced to promote abortion in violation of their conscience. We are still litigating another portion of the law requiring referrals. Read more about the case [here](#).

Despite the uncertainty, the following laws may protect your right not to provide birth control or sterilizations:

- Some conscience laws explicitly address sterilization.
- Other laws protect objections to any lawful health service. For example, the [Church Amendment](#) contains such a protection, though only if your employer receives federal funds for biomedical or behavioral research.
- Religious freedom laws may also protect you if the government is attempting to require your participation in the distribution or administration of birth control, though not all states have strong religious freedom protections.
- Title VII and similar state laws protecting employees may also protect your religious belief not to provide birth control or sterilizations if the employer can reasonably accommodate those beliefs.



**We encourage you to call someone on our legal team for guidance with your specific situation at 800-835-5233 or contact us online at [adfflegal.org/request-legal-help](https://adfflegal.org/request-legal-help).**

## Do I have a right to refuse to provide gender-transition drugs and surgeries?

Yes, protections do exist for those who object to providing certain procedures and surgeries on the basis of religious belief. But the level of protection isn't uniform from place to place. That's why it's best when states have general medical conscience laws that aren't tied exclusively to abortion. Those laws protect you from having to participate in any gender-transition interventions regardless of whether it's the government or a private entity trying to force you to do it. Plus, some states prohibit gender-transition drugs and procedures for minors, which in turn protects healthcare professionals in those states from having to provide them.

Here are a few other ways current state and federal laws may protect your conscience rights:

- The [federal RFRA](#) prohibits the federal government from ever requiring people of faith to participate in gender-transition procedures. Likewise, state RFRA may provide similar protection.
- The Free Exercise Clause of the First Amendment, which applies to both federal and state governments, also prohibits the government from requiring you to violate your religious beliefs by participating in gender-transition procedures.
- Title VII may protect your refusal to participate in prescribing gender-transition drugs and performing procedures when such refusal is based on religious beliefs. Title VII can prevent your employer from taking adverse employment action against you on the basis of your beliefs rising to the level of religious discrimination, and it may require your employer to accommodate your beliefs.

However, you should be aware that both the Obama and Biden administrations tried to promulgate regulations forcing healthcare providers who accept federal funds (including participating in Medicare or Medicaid) to offer gender-transition drugs and procedures. The Affordable Care Act statute itself contains no language imposing this rule, but the Obama and Biden administrations decided to reinterpret statutory language banning "sex" discrimination as if it bans discrimination against sexual orientation and gender identity. These regulations are in litigation, and the area of federal enforcement



### *Christian Medical & Dental Associations v. Bonta*

When the state of California enacted a law requiring doctors to participate in physician-assisted suicide, even in violation of their religious convictions and professional ethics, medical professionals across the state knew they needed to speak out. With the help of ADF, the Christian Medical & Dental Associations sued and scored a resounding victory for their First Amendment rights. Read more about this case [here](#).

is in flux because of the recent change in administration. But you should know about these attempts, as they may affect you if you or your employer accept federal funding.

This area of the law continues to develop at a rapid pace. Emerging legislation and litigation in this area will likely have an impact on the way you seek to live out your beliefs in your patient care. If you have concerns or questions, please call us and request to speak to an attorney about your rights.

## **Do I have the right to refuse to participate in capital punishment?**

Yes. You cannot be forced to attend or to participate in death penalty executions. Many states and the District of Columbia have outlawed capital punishment altogether, and in the remaining states, there are conscience protections to protect those who object to participation on religious grounds.

The following are a few of the relevant laws and protections:

- Federal law states that no employee of any state department of corrections, the Federal Bureau of Prisons, the United States Department of Justice, or the United States Marshals Service, and no employee who provides services to that department, bureau, or service under contract can be forced to attend or to participate in a federal execution.<sup>7</sup> This law also protects those who are providing services to such departments, but are not actual employees. For example, this would apply to contract doctors and would prevent these federal agencies from forcing them to administer lethal injections in violation of their religious beliefs.
- State laws protect physicians, though they vary in their protections. Several states, such as Arizona, require that individuals participating in an execution must do so on a voluntary basis. California explicitly protects physicians in this way, providing that “no physician or any other person invited pursuant to this section, whether or not employed by the Department of Corrections, shall be compelled to attend the execution, and any physician’s attendance shall be voluntary.”<sup>8</sup> Other states, such as Connecticut, forbid compelling anyone to participate in an execution. These laws appear to allow objections for any reason, religious or not. Still other states protect objectors who rely on religious or moral grounds for refusing to participate in capital punishment, much like the federal protections.
- Other laws and statues previously mentioned in this guide also apply in this circumstance. The federal RFRA, Free Exercise Clause of the First Amendment, and Title VII all protect your right to refuse participation in capital punishment on the basis of your religious beliefs. State RFRAs may also provide this protection.





# Legal Protections for Different Medical Fields

## Are medical students, residents, and applicants protected by conscience laws?

Yes, particularly with regard to abortion. There are several pro-life conscience laws that explicitly mention the conscience rights of students or applicants to a health school or residency. Medical residents are employees, so any conscience protection that applies to an employee or applicant for employment would apply to them. Some of these laws include:

- The [Church Amendment](#), which protects applicants for training, study, internship, and residency programs from discrimination because they are reluctant to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations, as applicable in programs receiving certain federal health funding.
- The [Coats-Snowe Amendment](#), which declares that governments or government schools cannot require students or residents to train, perform, or refer for abortions, or arrange for any of those activities.
- More generally, state conscience laws can protect medical students by mentioning them specifically or by applying to “any person” who might be required to assist in an intervention that violates the person’s conscience.
- Religious freedom laws, which generally prevent the government from burdening your religious beliefs absent a compelling interest, would likewise protect medical students in various contexts.

Laws vary in the extent to which they would protect objections to practices besides abortion, such as birth control. General religious accommodations, if applicable in the situation, might be of assistance for those objections.

## Are pharmacists protected by conscience laws?

Yes, although the results vary in different legal cases, pharmacists are protected under various conscience protection laws.

The laws and their protections vary depending on the state the pharmacist practices in, the employer he or she works for, and the activity the individual objects to performing. Some healthcare conscience protections explicitly include pharmacists, while others do not:

- Religious freedom laws such as the federal [RFRA](#) or state equivalents thereof can be used to shield pharmacists from some government mandates that require them to stock or dispense certain items.
- [The Free Exercise Clause of the First Amendment](#) is also used to protect pharmacists’ right to refuse to dispense objectionable medications. Different cases have led to varying results in this context. Pharmacists in Illinois were able to use state healthcare conscience and religious freedom laws to protect themselves from a state

mandate to carry the morning-after pill, while pharmacists in Washington State were less successful in front of several federal courts.

- Employment accommodation laws might also assist a pharmacist whose employer requires staff to be involved in certain procedures.

## Do counselors and social workers have a right to practice consistently with their beliefs?

Yes, they do.

To many patients, utilizing an individual, marital, or family counselor who shares their faith and deeply held values about fundamental issues like marriage is vital to their healing.

Therefore, it is increasingly important that professionals working in the mental health field have the ability to offer guidance that stems from their values. The First Amendment of the U.S. Constitution has protected counseling professionals from government universities or licensing boards that seek to eliminate them from the profession for their Christian views.

However, many states have also passed laws censoring counselors who hold to biblical views on sexuality and gender. For example, Colorado state law prohibits counselors from saying anything that would encourage minor clients struggling with their sex to “change behaviors or gender expressions or to eliminate or reduce sexual or romantic attraction.” Right now, ADF is representing Christian counselor [Kaley Chiles](#) in a case at the U.S. Supreme Court that challenges this law.

On the other hand, some states, such as Mississippi and Tennessee, have passed specific laws protecting counselors from discrimination based on their beliefs about marriage as a union between one man and one woman. Religious freedom protections, to the extent they are applicable, might also protect a counselor facing government discrimination based on their core beliefs.

As you research the applicable law in your state, don't hesitate to contact us for assistance.



**To speak to an attorney who can assess your specific situation and provide guidance, contact us at 800-835-5233 or [adfflegal.org/request-legal-help](https://adfflegal.org/request-legal-help).**

## As a member of the medical community serving in the military, do I have conscience rights?

Yes. The federal RFRA applies to members of the military (you can read more about the federal [RFRA here](#)). Congress strengthened the specific conscience protections for those serving in the military under the National Defense Authorization Act (NDAA) for the fiscal year 2014. They did this by specifying that, generally:

“...[T]he Armed Forces shall accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member...” and “...may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.””

Individual armed services might have additional conscience protections in their own rules. All of these

## *Chiles v. Salazar*

Kaley Chiles is a licensed professional counselor in Colorado who seeks to live out her faith in her everyday work—a faith that many of her clients share. But a state law censors Kaley’s conversations with minor clients, making her speak the government’s narrative on gender ideology even though it violates her religious convictions. That’s why we’re standing with Kaley—all the way to the U.S. Supreme Court. Read more about her case [here](#).



protections should be used to enable those serving in the military as a healthcare provider to assert conscientious objections to medical procedures and therapies without suffering adverse employment action.

Under federal law, no medical facility or any other facility operated by the Department of Defense, such as military bases, can be used for elective abortions, though they can and sometimes are used for abortion in cases alleging rape, incest, or a threat to the life of the mother. By extension, a person serving at a Department of Defense facility—either domestic or abroad—should have a right not to participate or assist in elective abortions. Even in situations involving rape, incest, or danger to the life of the mother, military doctors should rely on conscience protections requiring religious accommodations to protect your ability to refuse to participate in or perform abortion procedures.

For an objection to prescribing birth control, doctors serving in the military should utilize the NDAA and religious freedom laws. Additionally, specific branches of the military have created their own rules for pharmacists or medical professionals who object to providing certain contraceptives. Here are some examples:

- The Air Force has a policy for medical personnel who object to dispensing emergency contraception or engaging in “family planning services” for “moral, ethical, religious, personal, or professional reasons,” and those individuals “will not be required to engage or assist in such procedures unless the refusal poses a life-threatening risk to the patient.”<sup>10</sup>
- The Navy and the Marine Corps require that Navy medical facilities develop policies that ensure patients receive emergency contraception promptly if their healthcare provider and pharmacist has “moral or ethical beliefs that conflict with prescribing, dispensing, or distributing emergency contraception.”<sup>11</sup>
- The Army has a substantially similar policy, discussed in an October 2013 memo, describing that patients should receive emergency contraception but recognizing “moral or ethical beliefs that conflict with prescribing, dispensing, or distributing” them.

Importantly, these service-specific policies can vary regarding whether they apply to birth control in general or emergency contraception specifically. The more general religious accommodation policies and laws would apply to any procedure and even outside the healthcare context.



# Conclusion

**As you work to provide the best possible healthcare for your patients,** know that there are a great number of protections for medical professionals who wish to live by their faith and by the guiding principles of the Hippocratic Oath.

It may not always be easy to protect and defend life in your profession. Pressure from shifting culture and law may seem intimidating and discouraging. But whatever your specific medical profession, we can work together so you can feel secure in your right to live and work according to your conscience.

If you ever run into a situation at work where your right to opt out of certain situations or procedures is taken away, don't hesitate to call Alliance Defending Freedom at 800-835-5233 or contact us online at [adflegal.org/request-legal-help](https://adflegal.org/request-legal-help). Even if you have general questions about your rights, you can call ADF. You will never be charged for our legal services.

**Alliance Defending Freedom is the world's largest legal organization committed to protecting religious liberty, the sanctity of human life, freedom of speech, marriage and family, and parental rights.**

By God's grace, we have won 15 Supreme Court victories and have played a role in 77 victories at the High Court since 1994. We work worldwide to advance every person's God-given right to live and speak the truth. **Learn more at [adflegal.org](https://adflegal.org).**



#### End Notes

1. *Roe v. Wade*, 410 U.S. 113, 144 n.38 (1973); *Doe v. Bolton*, 410 U.S. 179, 197–98 (1973), *overturned by Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).
2. *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 301 (2022)
3. Found at 42 U.S.C. § 300a-7.
4. Public Law 93-348, § 214 (1973).
5. See, e.g., Div. G, § 508(d) of the Consolidated and Further Continuing Appropriations Act 2015, Pub. L. 113-235, 128 Stat 2130, 2515 (Dec. 16, 2014).
6. Beginning at 42 U.S.C. § 2000bb.
7. 18 U.S.C. § 3597(b).
8. Cal. Penal Code § 3605(c).
9. H.R. 3304 (2014).
10. Air Force Instruction 44-102, Chapter 9.4.6.8.
11. Navy Medicine Policy Memorandum 14-001 (Apr. 24, 2014).

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