

By Senator Baxley

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1 A bill to be entitled
2 An act relating to protections of medical conscience;
3 creating s. 381.00321, F.S.; providing a short title;
4 providing legislative findings and intent; defining
5 terms; providing that health care providers and health
6 care payors have the right not to participate in or
7 pay for any health care services that violate their
8 consciences; providing that providers and payors have
9 a right to make certain decisions consistent with
10 their religious beliefs under certain circumstances;
11 prohibiting a person from taking or threatening to
12 take adverse action against such providers and payors
13 for specified actions; providing for civil remedies
14 and damages; providing immunity from civil, criminal,
15 and administrative liability for such providers and
16 payors under certain circumstances; providing an
17 effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 381.00321, Florida Statutes, is created
22 to read:

23 381.00321 Rights of conscience of health care providers and
24 health care payors.—

25 (1) SHORT TITLE.—This section may be cited as the "Health
26 Care Ethics and Liberty Protection Act."

27 (2) LEGISLATIVE FINDINGS AND INTENT.—

28 (a) The Legislature finds that the right of conscience is a
29 fundamental and inalienable right. Threats to the right of

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30 conscience of health care providers and health care payors have
31 become increasingly common and severe in recent years. The swift
32 pace of scientific advancement, the expansion of medical
33 capabilities, and with the mistaken notion that health care
34 providers and health care payors are mere public utilities,
35 promise to make the crisis worse unless action is taken to
36 restore conscience to its rightful place. As patient autonomy to
37 decline a health care service must be respected, health care
38 providers and health care payors must have the right to decline
39 participating in or paying for specific, nonemergency services
40 that violate their consciences.

41 (b) It is the intent of the Legislature that a health care
42 provider or health care payor not be compelled to participate in
43 or pay for any health care service that the provider or payor
44 objects to on the basis of conscience.

45 (3) DEFINITIONS.—As used in this section, the term:

46 (a) "Conscience" means the religious, moral, or ethical
47 beliefs or principles held by a health care provider or health
48 care payor.

49 (b) "Health care payor" means a health insurer that pays
50 for, or arranges for, the payment of a health care service
51 provided to a patient, whether such payment is made in whole or
52 in part.

53 (c) "Health care provider" means a health care provider as
54 defined in s. 768.381(1)(f) or a student of a health care
55 education program.

56 (d) "Health care service" means inpatient or outpatient
57 tests or treatments of a human disease, condition, or
58 dysfunction or medical or other health-care-related research.

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59 (e) "Health insurer" means an authorized insurer offering
60 health insurance as defined in s. 624.603 for individual or
61 group coverage, a health maintenance organization as defined in
62 s. 641.19(12) issuing coverage through an individual or group
63 contract, or a self-insurance plan as defined in s. 624.031.

64 (f) "Participate" means to take part in any way in
65 providing a health care service or any part of such service.

66 (4) RIGHTS OF CONSCIENCE.—

67 (a) A health care provider or health care payor has the
68 right not to participate in or pay for any specific health care
69 service that violates the provider's or payor's conscience.

70 (b) A health care provider that is a business entity or a
71 health care payor that holds itself out to the public as
72 religious and states in its governing documents that it has a
73 religious purpose or mission and has internal operating policies
74 or procedures that implement such purpose or mission has the
75 right to make employment, staffing, contracting, and
76 credentialing decisions consistent with the provider's or
77 payor's religious beliefs.

78 (5) VIOLATIONS AND CIVIL REMEDIES.—

79 (a) A person may not take or threaten to take adverse
80 action against a health care provider or health care payor for:

81 1. Declining to participate in a health care service on the
82 basis of conscience.

83 2. Disclosing information to an appropriate governmental
84 agency that the health care provider or health care payor
85 reasonably believes is evidence of an employer's:

86 a. Violation of this section;

87 b. Violation of any law, rule, or regulation;

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88 c. Violation of any standard of care or other ethical
89 guidelines for the provision of any health care service; or

90 d. Gross mismanagement, gross waste of funds, abuse of
91 authority, or any action that is a substantial and specific
92 danger to public health or safety.

93 (b) A health care provider or health care payor that
94 alleges a violation of this section may bring a civil cause of
95 action for treble damages, an injunction, or any other
96 appropriate relief in law or equity. Injunctive relief includes,
97 but is not limited to, reinstatement of a health care provider
98 or health care payor to a previous position, reinstatement of
99 board certification, and relicensure. Such damages are
100 cumulative and may not be limited by any other remedies that may
101 be available under any other law. A prevailing plaintiff is
102 entitled to recover reasonable attorney fees and court costs.
103 Any additional burden or expense incurred by another health care
104 provider or health care payor arising from the exercise of the
105 right of conscience is not a defense to a violation of this
106 section.

107 (6) IMMUNITY FROM LIABILITY.—Health care providers and
108 health care payors are immune from civil, criminal, or
109 administrative liability for exercising the right of conscience
110 with respect to a health care service. A health care provider or
111 health care payor that is a business entity is immune from
112 civil, criminal, or administrative liability for any claims
113 related to or arising out of the exercise of the right of
114 conscience by a person employed, contracted, or credentialed by
115 such provider or payor.

116 Section 2. This act shall take effect July 1, 2022.