

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

---

1 Committee/Subcommittee hearing bill: Healthcare Regulation  
 2 Subcommittee

3 Representative Bartleman offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. The Legislature finds that the right of  
 8 conscience is central to the practice of medicine. It is the  
 9 intent of the Legislature to provide medical conscience rights  
 10 for health care providers to ensure that they can care for  
 11 patients consistent with their moral, ethical, and religious  
 12 convictions. Further, it is the intent of the Legislature that  
 13 licensed health care providers shall be free from threat of  
 14 discrimination for providing conscience-based health care.

15 Section 2. Section 381.00321, Florida Statutes, is created  
 16 to read:

Amendment No.

17 381.00321 Rights of conscience of health care providers.-

18 (1) DEFINITIONS.-As used in this section, the term:

19 (a) "Adverse action" means the discharge, suspension,  
20 transfer, demotion, discipline, suspension, exclusion,  
21 revocation of privileges, withholding of bonuses, or reduction  
22 in salary or benefits; any action that may negatively impact the  
23 advancement or graduation of a student, including, but not  
24 limited to, the withholding of scholarship funds; or any other  
25 negative action taken against a health care provider.

26 (b) "Agency" means the Agency for Health Care  
27 Administration.

28 (c) "Business entity" has the same meaning as provided in  
29 s. 606.03. The term also includes a charitable organization as  
30 defined in s. 496.404 and a corporation not for profit as  
31 defined in s. 617.01401.

32 (d) "Conscience-based objection" means an objection based  
33 on a sincerely held religious, moral, or ethical belief.  
34 Conscience with respect to entities, is determined by reference  
35 to the entities' governing documents, any published ethical,  
36 moral, or religious guidelines or directives, mission  
37 statements, constitutions, articles of incorporation, bylaws,  
38 policies, or regulations.

39 (e) "Department" means the Department of Health.

40 (f) "Educational institution" means a public or private  
41 school, college, or university.

190827 - h1403- strike Bartleman.docx

Published On: 3/31/2023 6:31:53 PM

Amendment No.

42 (g) "Governmental entity" means the state or any political  
43 subdivision thereof, including the executive, legislative, and  
44 judicial branches of government; the independent establishments  
45 of the state, counties, municipalities, districts, authorities,  
46 boards, or commissions; any agencies that are subject to chapter  
47 286, including, but not limited to, the department and any  
48 boards under the jurisdiction of the department.

49 (h) "Health care service" means medical procedures,  
50 medical care, or medical services provided to any patient at any  
51 time over the entire course of treatment, or medical research,  
52 including, but not limited to, testing; diagnosis; referral;  
53 dispensing or administering any drug, medication, or device;  
54 psychological therapy or counseling; research; prognosis;  
55 therapy; recordmaking procedures; notes related to treatment;  
56 set up or performance of a surgery or procedure; or any other  
57 care or services performed or provided by any health care  
58 provider.

59 (i) "Health care provider" means:

60 1. Any person or entity licensed under chapter 394;  
61 chapter 400; chapter 401; chapter 457; chapter 458; chapter 459;  
62 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;  
63 chapter 465; chapter 466; chapter 467; part I, part II, part  
64 III, part IV, part V, part X, part XIII, or part XIV of chapter  
65 468; chapter 478; chapter 480; part I, part II, or part III of  
66 chapter 483; chapter 484; chapter 486; chapter 490; or chapter

190827 - h1403- strike Bartleman.docx

Published On: 3/31/2023 6:31:53 PM

Amendment No.

67 491; or

68 2. Any provider as defined in s. 408.803, a continuing care  
69 facility licensed under chapter 651, or a pharmacy permitted  
70 under chapter 465.

71  
72 The term includes any student enrolled in an educational  
73 institution who is seeking to become a health care provider.

74 (k) "Participate" or "participation" means to pay for or  
75 take part in any way in providing or facilitating any health  
76 care service or any part of such service.

77 (2) RIGHTS OF CONSCIENCE.-

78 (a)1. A health care provider has the right to opt out of  
79 participation in or payment for any health care service on the  
80 basis of a conscience-based objection. A health care provider  
81 must, at the time of the conscience-based objection or timely  
82 thereafter:

83 a. Provide written notification of the conscience-based  
84 objection to the health care practitioner's supervisor or  
85 employer, if applicable; or

86 b. Document the conscience-based objection to a particular  
87 health care service in the patient's medical file.

88 2. A health care provider who is a student must provide  
89 written notice of their conscience-based objection to their  
90 educational institution at the time of the conscience-based  
91 objection.

Amendment No.

92        (b) The exercise of the right of medical conscience is  
93 limited to conscience-based objections to a specific health care  
94 service. This section may not be construed to waive or modify  
95 any duty a health care provider may have to provide other health  
96 care services that do not violate their rights of conscience or  
97 to provide informed consent to a patient in accordance with  
98 general law.

99        (c) A person, a governmental entity, a business entity, or  
100 an educational institution may not discriminate against any  
101 health care provider because the health care provider declined  
102 to participate in a health care service on the basis of a  
103 conscience-based objection.

104        (3) SPEECH AND WHISTLEBLOWER PROTECTIONS.—

105        (a) A health care provider may not be discriminated  
106 against or suffer any adverse action in any manner with respect  
107 to:

108        1. Providing or causing to be provided or intending to  
109 provide or cause to be provided to their employer, the Attorney  
110 General, the Department of Health, any other state agency  
111 charged with protecting health care rights of conscience, the  
112 United States Department of Health and Human Services, the  
113 Office of Civil Rights, or any other federal agency charged with  
114 protecting health care rights of conscience information relating  
115 to any violation of or any act or omission the health care  
116 provider reasonably believes to be a violation of any provision

Amendment No.

117 of this act;

118 2. Testifying or intending to testify in a proceeding  
119 concerning such violation; or

120 3. Assisting or participating or intending to assist or  
121 participate in such a proceeding.

122 (b) Unless the disclosure is specifically prohibited by  
123 law, a health care provider may not be discriminated against in  
124 any manner for disclosing information that the health care  
125 provider reasonably believes constitutes:

126 1. A violation of any law, rule, or regulation;

127 2. A violation of any ethical guidelines for the provision  
128 of any medical procedure or service; or

129 3. A practice or method of treatment that may put patient  
130 health at risk or present a substantial and specific danger to  
131 public health or safety.

132 (4) CIVIL REMEDIES.—A health care provider has a civil  
133 cause of action for appropriate damages, an injunction, or any  
134 other appropriate relief in law or equity, including reasonable  
135 attorney fees against any person, governmental entity, business  
136 entity, or educational institution for any violation of this  
137 act.

138 (5) IMMUNITY FROM LIABILITY.—A health care provider may  
139 not be civilly liable for declining to participate in a health  
140 care service on the basis of a conscience-based objection. A  
141 health care provider must comply with the notice requirement of

Amendment No.

142 paragraph (2)(c) to avoid civil liability under this section.

143 (6) EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.—This  
144 section does not override the requirement to provide emergency  
145 medical treatment to all patients as set forth in the Emergency  
146 Medical Treatment and Active Labor Act, 42 U.S.C. s. 1395dd.

147 Section 3. Section 456.61, Florida Statutes, is created to  
148 read:

149 456.61 Use of free speech by a health care practitioner;  
150 prohibition.—

151 (1) A board within the jurisdiction of the department, or  
152 the department if there is no board, may not take disciplinary  
153 action against, or deny a license to, an individual solely  
154 because the individual has spoken or written publicly about a  
155 health care service, including, but not limited to, speech  
156 through the use of a social media platform, as defined in s.  
157 501.2041, provided such individual is not providing medical  
158 advice or treatment to a specific patient and provided such  
159 speech does not violate of any other applicable law.

160 (2) A specialty board or other recognizing agency approved  
161 by any board within the jurisdiction of the department may not  
162 exclude an individual from membership solely because the  
163 individual has spoken or written publicly about a health care  
164 service including, but not limited to, speech through the use of  
165 a social media platform, as defined in s. 501.2041, provided  
166 such individual is not providing medical advice or treatment to

190827 - h1403- strike Bartleman.docx

Published On: 3/31/2023 6:31:53 PM

Amendment No.

167 a specific patient and provided such speech does not violate any  
168 other applicable law.

169 Section 4. If any provision of this act or the application  
170 thereof to any person or circumstance is held invalid, the  
171 invalidity does not affect other provisions or applications of  
172 this act which can be given effect without the invalid provision  
173 or application, and to this end the provisions of this act are  
174 severable.

175 Section 5. This act shall take effect July 1, 2023.

176  
177 -----

178 **T I T L E A M E N D M E N T**

179 Remove line 5 and insert:

180 health care providers to opt