

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WITHDRAWN	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 Rudman offered the following:

4

5 **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 and payors to ensure that they can
 11 care for patients consistent with their moral, ethical, and
 12 religious convictions. Further, it is the intent of the
 13 Legislature that licensed health care providers and payors shall
 14 be free from threat of discrimination for providing conscience-
 15 based health care.

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

18 381.00321 Rights of conscience of health care providers
19 and health care payors.-

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

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

28 (b) "Agency" means the Agency for Health Care
29 Administration.

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

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

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

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

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

54 (h) "Health care payor" means a health insurer, an
55 employer, a health care sharing organization, a health plan, a
56 health maintenance organization, a management services
57 organization, or any other entity that pays for, or arranges for
58 the payment of any health care service, whether such payment is
59 in whole or in part.

60 (i) "Health care provider" means:

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

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66 468; chapter 478; chapter 480; part I, part II, or part III of
67 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
68 491; or

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

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

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

78 (2) RIGHTS OF CONSCIENCE.-

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

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

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

89 2. A health care provider who is a student must provide
90 written notice of their conscience-based objection to their

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91 educational institution at the time of the conscience-based
92 objection or timely thereafter.

93 (b) The exercise of the right of medical conscience is
94 limited to conscience-based objections to a specific health care
95 service. This section may not be construed to waive or modify
96 any duty a health care provider or health care payor may have to
97 provide or pay for other health care services that do not
98 violate their rights of conscience or any duty a health care
99 provider may have to provide informed consent to a patient in
100 accordance with general law. Additionally, a health care payor
101 may not decline to pay for a health care service it is
102 contractually obligated to cover during the plan year.

103 (c) A health care provider or health care payor may not be
104 discriminated against or suffer adverse action because the
105 health care provider or health care payor declined to
106 participate in or pay for a health care service on the basis of
107 a conscience-based objection.

108 (3) SPEECH AND WHISTLEBLOWER PROTECTIONS.—

109 (a) A health care provider or health care payor may not be
110 discriminated against or suffer any adverse action in any manner
111 with respect to:

112 1. Providing or causing to be provided or intending to
113 provide or cause to be provided to their employer, the Attorney
114 General, the Department of Health, any other state agency
115 charged with protecting health care rights of conscience, the

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116 United States Department of Health and Human Services, the
117 Office of Civil Rights, or any other federal agency charged with
118 protecting health care rights of conscience information relating
119 to any violation of or any act or omission the health care
120 provider or health care payor reasonably believes to be a
121 violation of any provision of this act;

122 2. Testifying or intending to testify in a proceeding
123 concerning such violation; or

124 3. Assisting or participating or intending to assist or
125 participate in such a proceeding.

126 (b) Unless the disclosure is specifically prohibited by
127 law, a health care provider or health care payor may not be
128 discriminated against in any manner for disclosing information
129 that the health care provider or health care payor reasonably
130 believes constitutes:

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

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

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

137 (4) CIVIL REMEDIES.—A health care provider or health care
138 payor may bring a civil cause of action for appropriate damages,
139 an injunction, or any other appropriate relief in law or equity,
140 including reasonable attorney fees, for any violation of this

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141 act.

142 (5) IMMUNITY FROM LIABILITY.—A health care provider or
143 health care payor may not be civilly liable for declining to
144 participate in a health care service on the basis of a
145 conscience-based objection.

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

150 Section 3. Section 456.61, Florida Statutes, is created to
151 read:

152 456.61 Use of free speech by a health care practitioner;
153 prohibition.—

154 (1) A board within the jurisdiction of the department, or
155 the department if there is no board, may not take disciplinary
156 action against, or deny a license to, an individual because the
157 individual has spoken or written publicly about a health care
158 service or public policy, including but not limited to, speech
159 through the use of a social media platform, as defined in s.
160 501.2041, provided such individual is not providing medical
161 advice or treatment to a specific patient and provided such
162 speech does not violate any other applicable law.

163 (2) If a specialty board or other recognizing agency
164 approved by any board within the jurisdiction of the department
165 revokes the certification of an individual because the

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166 individual has spoken or written publicly about a health care
167 service or public policy including, but not limited to, speech
168 through the use of a social media platform, as defined in s.
169 501.2041, and provided such individual was not providing medical
170 advice or treatment to a specific patient and such speech
171 provided such speech did not separately violate any other
172 applicable law, the board within the jurisdiction of the
173 department may revoke its approval of such specialty board or
174 other recognizing agency.

175 Section 4. If any provision of this act or the application
176 thereof to any person or circumstance is held invalid, the
177 invalidity does not affect other provisions or applications of
178 this act which can be given effect without the invalid provision
179 or application, and to this end the provisions of this act are
180 severable.

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